

1 A bill to be entitled
2 An act relating to the Everglades Protection Area;
3 amending s. 163.3184, F.S.; requiring comprehensive
4 plans and plan amendments that apply to certain lands
5 within or near the Everglades Protection Area to
6 follow the state coordinated review process; requiring
7 the Department of Environmental Protection, in
8 consultation with specified entities, to make certain
9 determinations for such plans and amendments, to
10 provide written determinations to the local government
11 and specified entities within a specified timeframe,
12 and to coordinate with the local government and
13 specified entities on certain planning strategies and
14 mitigation measures; providing a condition for the
15 adoption of such plans and plan amendments upon
16 certain determinations by the department; specifying a
17 requirement for the transmittal of certain
18 comprehensive plan amendments to the department;
19 revising the scope of the state land planning agency's
20 compliance determination relating to plans and plan
21 amendments; amending s. 163.3187, F.S.; authorizing
22 site-specific text changes for small scale future land
23 use map amendments; prohibiting the adoption of small
24 scale development amendments for properties located
25 within or near the Everglades Protection Area;

26 requiring local governments whose boundaries include
 27 any portion of the Everglades Protection Area to
 28 transmit adopted small scale development amendments to
 29 the state land planning agency within a specified
 30 timeframe; amending s. 420.615, F.S.; conforming a
 31 cross-reference; providing an effective date.

32

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

34

35 Section 1. Paragraph (a) of subsection (2), paragraph (a)
 36 of subsection (3), subsection (4), paragraph (b) of subsection
 37 (5), and paragraph (a) of subsection (11) of section 163.3184,
 38 Florida Statutes, are amended, and paragraph (d) is added to
 39 subsection (2) of that section, to read:

40 163.3184 Process for adoption of comprehensive plan or
 41 plan amendment.—

42 (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

43 (a) Plan amendments adopted by local governments shall
 44 follow the expedited state review process in subsection (3),
 45 except as set forth in paragraphs (b), (c), and (d) ~~(b) and (c)~~.

46 (d) Proposed plans and plan amendments that apply to any
 47 land within, or within 2 miles of, the Everglades Protection
 48 Area as defined in s. 373.4592(2) must follow the state
 49 coordinated review process in subsection (4).

50 (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF

51 COMPREHENSIVE PLAN AMENDMENTS.—

52 (a) The process for amending a comprehensive plan
53 described in this subsection shall apply to all amendments
54 except as provided in paragraphs (2) (b), (c), and (d) ~~(2) (b) and~~
55 ~~(e)~~ and shall be applicable statewide.

56 (4) STATE COORDINATED REVIEW PROCESS.—

57 (a) *Coordination.*—The state land planning agency shall
58 only use the state coordinated review process described in this
59 subsection for review of comprehensive plans and plan amendments
60 described in paragraphs (2) (c) and (d) ~~paragraph (2) (e)~~. Each
61 comprehensive plan or plan amendment proposed to be adopted
62 pursuant to this subsection shall be transmitted, adopted, and
63 reviewed in the manner prescribed in this subsection. The state
64 land planning agency shall have responsibility for plan review,
65 coordination, and the preparation and transmission of comments,
66 pursuant to this subsection, to the local governing body
67 responsible for the comprehensive plan or plan amendment.

68 (b) *Local government transmittal of proposed plan or*
69 *amendment.*—Each local governing body proposing a plan or plan
70 amendment specified in paragraph (2) (c) or paragraph (2) (d)
71 shall transmit the complete proposed comprehensive plan or plan
72 amendment to the reviewing agencies within 10 working days after
73 the first public hearing pursuant to subsection (11). The
74 transmitted document shall clearly indicate on the cover sheet
75 that this plan amendment is subject to the state coordinated

76 review process of this subsection. The local governing body
77 shall also transmit a copy of the complete proposed
78 comprehensive plan or plan amendment to any other unit of local
79 government or government agency in the state that has filed a
80 written request with the governing body for the plan or plan
81 amendment.

82 (c) *Reviewing agency comments.*—Except as provided in
83 paragraph (d), the agencies specified in paragraph (b) may
84 provide comments regarding the plan or plan amendments in
85 accordance with subparagraphs (3)(b)2.-4. However, comments on
86 plans or plan amendments required to be reviewed under the state
87 coordinated review process shall be sent to the state land
88 planning agency within 30 days after receipt by the state land
89 planning agency of the complete proposed plan or plan amendment
90 from the local government. If the state land planning agency
91 comments on a plan or plan amendment adopted under the state
92 coordinated review process, it shall provide comments according
93 to paragraph (e) ~~(d)~~. Any other unit of local government or
94 government agency specified in paragraph (b) may provide
95 comments to the state land planning agency in accordance with
96 subparagraphs (3)(b)2.-4. within 30 days after receipt by the
97 state land planning agency of the complete proposed plan or plan
98 amendment. Written comments submitted by the public shall be
99 sent directly to the local government.

100 (d) Everglades Protection Area determinations.—A proposed

101 plan or plan amendment that applies to any land within, or
102 within 2 miles of, the Everglades Protection Area as defined in
103 s. 373.4592(2) must be reviewed pursuant to this paragraph by
104 the Department of Environmental Protection in consultation with
105 all federally recognized Indian tribes in this state. The
106 department shall determine whether the proposed plan or plan
107 amendment, or any portion thereof, adversely impacts the
108 Everglades Protection Area or the Everglades restoration and
109 protection objectives identified in s. 373.4592. The department
110 shall issue a written determination to the state land planning
111 agency, the local government, and all federally recognized
112 Indian tribes in this state within 30 days after receipt of the
113 proposed plan or plan amendment. The determination must identify
114 any adverse impacts and may be provided as part of the agency's
115 comments pursuant to paragraph (c). Before the adoption of the
116 proposed plan or plan amendment, the department shall work in
117 coordination with the state land planning agency, the local
118 government, and all federally recognized Indian tribes in this
119 state to identify any planning strategies or measures that the
120 local government could include in the proposed plan or plan
121 amendment to eliminate or mitigate any adverse impacts to the
122 Everglades Protection Area or the Everglades restoration and
123 protection objectives in s. 373.4592. If the department
124 determines that any portion of the proposed plan or plan
125 amendment will adversely impact the Everglades Protection Area

126 or the Everglades restoration and protection objectives
127 identified in s. 373.4592, the local government must modify that
128 portion of the proposed plan or plan amendment to include
129 planning strategies or measures to eliminate or mitigate such
130 adverse impacts before adopting the proposed plan or plan
131 amendment or that portion of the proposed plan or plan amendment
132 may not be adopted.

133 (e) State land planning agency review.—

134 1. If the state land planning agency elects to review a
135 plan or plan amendment specified in paragraph (2)(c) or
136 paragraph (2)(d), the agency shall issue a report giving its
137 objections, recommendations, and comments regarding the proposed
138 plan or plan amendment within 60 days after receipt of the
139 proposed plan or plan amendment. Notwithstanding the limitation
140 on comments in sub-subparagraph (3)(b)4.g., the state land
141 planning agency may make objections, recommendations, and
142 comments in its report regarding whether the plan or plan
143 amendment is in compliance and whether the plan or plan
144 amendment will adversely impact important state resources and
145 facilities. Any objection regarding an important state resource
146 or facility that will be adversely impacted by the adopted plan
147 or plan amendment must ~~shall~~ also state with specificity how the
148 plan or plan amendment will adversely impact the important state
149 resource or facility and must ~~shall~~ identify measures the local
150 government may take to eliminate, reduce, or mitigate the

151 adverse impacts. When a federal, state, or regional agency has
152 implemented a permitting program, a local government is not
153 required to duplicate or exceed that permitting program in its
154 comprehensive plan or to implement such a permitting program in
155 its land development regulations. This subparagraph does not
156 prohibit the state land planning agency in conducting its review
157 of local plans or plan amendments from making objections,
158 recommendations, and comments regarding densities and
159 intensities consistent with this part. In preparing its
160 comments, the state land planning agency shall only base its
161 considerations on written, and not oral, comments.

162 2. The state land planning agency review shall identify
163 all written communications with the agency regarding the
164 proposed plan amendment. The written identification must include
165 a list of all documents received or generated by the agency,
166 which list must be of sufficient specificity to enable the
167 documents to be identified and copies requested, if desired, and
168 the name of the person to be contacted to request copies of any
169 identified document.

170 ~~(f)(e)~~ *Local government review of comments; adoption of*
171 *plan or amendments and transmittal.-*

172 1. The local government shall review the report submitted
173 to it by the state land planning agency, if any, and written
174 comments submitted to it by any other person, agency, or
175 government. The local government, upon receipt of the report

176 from the state land planning agency, shall hold a ~~its~~ second
177 public hearing, ~~which shall be a hearing~~ to determine whether to
178 adopt the comprehensive plan or one or more comprehensive plan
179 amendments pursuant to subsection (11). If the local government
180 fails to hold the second hearing within 180 days after receipt
181 of the state land planning agency's report, the amendments must
182 ~~shall~~ be deemed withdrawn unless extended by agreement with
183 notice to the state land planning agency and any affected person
184 that provided comments on the amendment. The 180-day limitation
185 does not apply to amendments processed pursuant to s. 380.06.

186 2. All comprehensive plan amendments adopted by the
187 governing body, along with the supporting data and analysis,
188 must ~~shall~~ be transmitted within 10 working days after the
189 second public hearing to the state land planning agency and any
190 other agency or local government that provided timely comments
191 under paragraph (c). Comprehensive plan amendments that apply to
192 any land within, or within 2 miles of, the Everglades Protection
193 Area as defined in s. 373.4592(2) must be additionally
194 transmitted within 10 working days after the second public
195 hearing to the Department of Environmental Protection.

196 3. The state land planning agency shall notify the local
197 government of any deficiencies within 5 working days after
198 receipt of a plan or plan amendment package. For purposes of
199 completeness, a plan or plan amendment must ~~shall~~ be deemed
200 complete if it contains a full, executed copy of the adoption

201 ordinance or ordinances; in the case of a text amendment, a full
202 copy of the amended language in legislative format with new
203 words inserted in the text underlined, and words deleted
204 stricken with hyphens; in the case of a future land use map
205 amendment, a copy of the future land use map clearly depicting
206 the parcel, its existing future land use designation, and its
207 adopted designation; and a copy of any data and analyses the
208 local government deems appropriate.

209 4. After the state land planning agency makes a
210 determination of completeness regarding the adopted plan or plan
211 amendment, the state land planning agency shall have 45 days to
212 determine if the plan or plan amendment is in compliance with
213 this act. Unless the plan or plan amendment is substantially
214 changed from the one commented on, the state land planning
215 agency's compliance determination shall be limited to objections
216 raised in the objections, recommendations, and comments report
217 and the review of planning strategies or measures adopted
218 pursuant to paragraph (d). During the period provided for in
219 this subparagraph, the state land planning agency shall issue,
220 through a senior administrator or the secretary, a notice of
221 intent to find that the plan or plan amendment is in compliance
222 or not in compliance. The state land planning agency shall post
223 a copy of the notice of intent on the agency's Internet website.
224 Publication by the state land planning agency of the notice of
225 intent on the state land planning agency's Internet site shall

226 | be prima facie evidence of compliance with the publication
 227 | requirements of this subparagraph.

228 | 5. A plan or plan amendment adopted under the state
 229 | coordinated review process shall go into effect pursuant to the
 230 | state land planning agency's notice of intent. If timely
 231 | challenged, an amendment does not become effective until the
 232 | state land planning agency or the Administration Commission
 233 | enters a final order determining the adopted amendment to be in
 234 | compliance.

235 | (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN
 236 | AMENDMENTS.—

237 | (b) The state land planning agency may file a petition
 238 | with the Division of Administrative Hearings pursuant to ss.
 239 | 120.569 and 120.57, with a copy served on the affected local
 240 | government, to request a formal hearing to challenge whether the
 241 | plan or plan amendment is in compliance as defined in paragraph
 242 | (1)(b). The state land planning agency's petition must clearly
 243 | state the reasons for the challenge. Under the expedited state
 244 | review process, this petition must be filed with the division
 245 | within 30 days after the state land planning agency notifies the
 246 | local government that the plan amendment package is complete
 247 | according to subparagraph (3)(c)3. Under the state coordinated
 248 | review process, this petition must be filed with the division
 249 | within 45 days after the state land planning agency notifies the
 250 | local government that the plan amendment package is complete

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251 according to subparagraph (4) (f) 3 ~~(4) (e) 3~~.

252 1. The state land planning agency's challenge to plan
253 amendments adopted under the expedited state review process
254 shall be limited to the comments provided by the reviewing
255 agencies pursuant to subparagraphs (3) (b) 2.-4., upon a
256 determination by the state land planning agency that an
257 important state resource or facility will be adversely impacted
258 by the adopted plan amendment. The state land planning agency's
259 petition must ~~shall~~ state with specificity how the plan
260 amendment will adversely impact the important state resource or
261 facility. The state land planning agency may challenge a plan
262 amendment that has substantially changed from the version on
263 which the agencies provided comments but only upon a
264 determination by the state land planning agency that an
265 important state resource or facility will be adversely impacted.

266 2. If the state land planning agency issues a notice of
267 intent to find the comprehensive plan or plan amendment not in
268 compliance with this act, the notice of intent shall be
269 forwarded to the Division of Administrative Hearings of the
270 Department of Management Services, which shall conduct a
271 proceeding under ss. 120.569 and 120.57 in the county of and
272 convenient to the affected local jurisdiction. The parties to
273 the proceeding shall be the state land planning agency, the
274 affected local government, and any affected person who
275 intervenes. A ~~No~~ new issue may not be alleged as a reason to

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276 find a plan or plan amendment not in compliance in an
277 administrative pleading filed more than 21 days after
278 publication of notice unless the party seeking that issue
279 establishes good cause for not alleging the issue within that
280 time period. Good cause does not include excusable neglect.

281 (11) PUBLIC HEARINGS.—

282 (a) The procedure for transmittal of a complete proposed
283 comprehensive plan or plan amendment pursuant to subparagraph
284 (3)(b)1. and paragraph (4)(b) and for adoption of a
285 comprehensive plan or plan amendment pursuant to subparagraphs
286 (3)(c)1. and (4)(f)1. ~~(4)(e)1.~~ shall be by affirmative vote of
287 not less than a majority of the members of the governing body
288 present at the hearing. The adoption of a comprehensive plan or
289 plan amendment shall be by ordinance. For the purposes of
290 transmitting or adopting a comprehensive plan or plan amendment,
291 the notice requirements in chapters 125 and 166 are superseded
292 by this subsection, except as provided in this part.

293 Section 2. Subsections (1) and (2) of section 163.3187,
294 Florida Statutes, are amended to read:

295 163.3187 Process for adoption of small scale comprehensive
296 plan amendment.—

297 (1) A small scale development amendment may be adopted if
298 all of ~~under~~ the following conditions are met:

299 (a) The proposed amendment involves a use of 50 acres or
300 fewer. ~~and:~~

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301 (b) The proposed amendment does not involve a text change
302 to the goals, policies, and objectives of the local government's
303 comprehensive plan, but only proposes a land use change to the
304 future land use map for a site-specific small scale development
305 activity. However, site-specific text changes that relate
306 directly to, and are adopted simultaneously with, the small
307 scale future land use map amendment are ~~shall be~~ permissible
308 under this section.

309 (c) The property that is the subject of the proposed
310 amendment is not located within an area of critical state
311 concern, unless the project subject to the proposed amendment
312 involves the construction of affordable housing units meeting
313 the criteria of s. 420.0004(3), and is located within an area of
314 critical state concern designated by s. 380.0552 or by the
315 Administration Commission pursuant to s. 380.05(1).

316 (d) The property that is the subject of the proposed
317 amendment is not located in whole or in part within, or within 2
318 miles of, the Everglades Protection Area as defined in s.
319 373.4592(2).

320 (2) Small scale development amendments adopted pursuant to
321 this section require only one public hearing before the
322 governing board, which shall be an adoption hearing as described
323 in s. 163.3184(11). Within 10 days after the adoption of a small
324 scale development amendment, a county whose boundaries include
325 any portion of the Everglades Protection Area designated under

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326 s. 373.4592, and the municipalities within the county, shall
327 transmit a copy of the amendment to the state land planning
328 agency for recordkeeping purposes.

329 Section 3. Subsection (5) of section 420.615, Florida
330 Statutes, is amended to read:

331 420.615 Affordable housing land donation density bonus
332 incentives.—

333 (5) The local government, as part of the approval process,
334 shall adopt a comprehensive plan amendment, pursuant to part II
335 of chapter 163, for the receiving land that incorporates the
336 density bonus. Such amendment shall be adopted in the manner as
337 required for small-scale amendments pursuant to s. 163.3187 and
338 is not subject to the requirements of s. 163.3184(4)(b), (c), or
339 (e) s. 163.3184(4)(b)–(d).

340 Section 4. This act shall take effect July 1, 2022.