

By Senator Rodriguez

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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

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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:

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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 plan  
41 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 described  
53 in this subsection shall apply to all amendments except as  
54 provided in paragraphs (2) (b), (c), and (d) ~~(2) (b) and (c)~~ and  
55 shall be applicable statewide.

56           (4) STATE COORDINATED REVIEW PROCESS.—

57           (a) *Coordination.*—The state land planning agency shall only  
58 use the state coordinated review process described in this

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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

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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

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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

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

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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

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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

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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 with  
238 the Division of Administrative Hearings pursuant to ss. 120.569  
239 and 120.57, with a copy served on the affected local government,  
240 to request a formal hearing to challenge whether the plan or  
241 plan amendment is in compliance as defined in paragraph (1)(b).  
242 The state land planning agency's petition must clearly state the  
243 reasons for the challenge. Under the expedited state review  
244 process, this petition must be filed with the division within 30  
245 days after the state land planning agency notifies the local  
246 government that the plan amendment package is complete according  
247 to subparagraph (3)(c)3. Under the state coordinated review  
248 process, this petition must be filed with the division within 45  
249 days after the state land planning agency notifies the local  
250 government that the plan amendment package is complete according  
251 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

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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  
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,

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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:~~

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).

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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  
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.