

By Senator Calatayud

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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 that proposed
4 plans and plan amendments that apply to certain lands
5 within or near the Everglades Protection Area follow
6 the state coordinated review process; conforming
7 provisions to changes made by the act; authorizing
8 local governments to consider an application for a
9 development permit or development order contingent
10 upon adoption of such plans and amendments; providing
11 duties of the Department of Environmental Protection
12 relating to such plans and plan amendments; providing
13 a condition for the adoption of such plans and plan
14 amendments upon a certain determination by the
15 department; specifying a requirement for the
16 transmittal of certain comprehensive plan amendments
17 to the department; making technical changes; providing
18 construction; amending s. 163.3187, F.S.; authorizing
19 site-specific text changes for small-scale future land
20 use map amendments; prohibiting the adoption of small-
21 scale development amendments for properties located
22 within or near the Everglades Protection Area;
23 requiring local governments whose boundaries include
24 any portion of the Everglades Protection Area to
25 transmit copies of adopted small-scale development
26 amendments to the state land planning agency within a
27 specified timeframe; making technical changes;
28 providing construction; amending s. 420.615, F.S.;
29 conforming a cross-reference; providing an effective

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date.

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

Section 1. Paragraph (a) of subsection (2), paragraph (a) of subsection (3), subsection (4), paragraph (b) of subsection (5), and paragraph (a) of subsection (11) of section 163.3184, Florida Statutes, are amended, and paragraph (d) is added to subsection (2) and subsection (14) is added to that section, to read:

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

(2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

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

(d) Proposed plans and plan amendments by a county as defined in s. 125.011(1) or any municipality located therein which apply to land within, or within 2 miles of, the Everglades Protection Area as defined in s. 373.4592(2), such as lands within Miami-Dade, Broward, or Monroe County, must follow the state coordinated review process as provided in subsection (4).

(3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS.—

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

(4) STATE COORDINATED REVIEW PROCESS.—

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

70 (b) *Local government transmittal of proposed plan or*
71 *amendment.*—Each local governing body proposing a plan or plan
72 amendment specified in paragraph (2) (c) or paragraph (2) (d)
73 shall transmit the complete proposed comprehensive plan or plan
74 amendment to the reviewing agencies within 10 working days after
75 the first public hearing pursuant to subsection (11). The
76 transmitted document must ~~shall~~ clearly indicate on the cover
77 sheet that this plan amendment is subject to the state
78 coordinated review process of this subsection. The local
79 governing body shall also transmit a copy of the complete
80 proposed comprehensive plan or plan amendment to any other unit
81 of local government or government agency in the state that has
82 filed a written request with the governing body for the plan or
83 plan amendment.

84 (c) *Reviewing agency comments.*—The agencies specified in
85 paragraph (b) may provide comments regarding the plan or plan
86 amendments in accordance with subparagraphs (3) (b) 2.-4. However,
87 comments on plans or plan amendments required to be reviewed

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88 under the state coordinated review process must ~~shall~~ be sent to
89 the state land planning agency within 30 days after receipt by
90 the state land planning agency of the complete proposed plan or
91 plan amendment from the local government. If the state land
92 planning agency comments on a plan or plan amendment adopted
93 under the state coordinated review process, it must ~~shall~~
94 provide comments according to paragraph (e) ~~(d)~~. Any other unit
95 of local government or government agency specified in paragraph
96 (b) may provide comments to the state land planning agency in
97 accordance with subparagraphs (3)(b)2.-4. within 30 days after
98 receipt by the state land planning agency of the complete
99 proposed plan or plan amendment. Written comments submitted by
100 the public must ~~shall~~ be sent directly to the local government.

101 (d) Everglades Protection Area determinations.—A proposed
102 plan or plan amendment that applies to any land within, or
103 within 2 miles of, the Everglades Protection Area as defined in
104 s. 373.4592(2) must be reviewed pursuant to this paragraph by
105 the Department of Environmental Protection. The department shall
106 determine whether the proposed plan or plan amendment, or any
107 portion thereof, adversely impacts the Everglades Protection
108 Area or the Everglades restoration and protection objectives
109 identified in s. 373.4592. The department shall issue a written
110 determination to the state land planning agency and the local
111 government within 30 days after receipt of the proposed plan or
112 plan amendment. The determination must identify any adverse
113 impacts and may be provided as part of the agency's comments
114 pursuant to paragraph (c). Before the adoption of the proposed
115 plan or plan amendment, the department shall work in
116 coordination with the state land planning agency and the local

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117 government to identify any planning strategies or measures that
118 the local government could include in the proposed plan or plan
119 amendment to eliminate or mitigate any adverse impacts to the
120 Everglades Protection Area or the Everglades restoration and
121 protection objectives identified in s. 373.4592. If the
122 department determines that any portion of the proposed plan or
123 plan amendment will adversely impact the Everglades Protection
124 Area or the Everglades restoration and protection objectives
125 identified in s. 373.4592, the local government must modify that
126 portion of the proposed plan or plan amendment to include
127 planning strategies or measures to eliminate or mitigate such
128 adverse impacts before adopting the proposed plan or plan
129 amendment or that portion of the proposed plan or plan amendment
130 may not be adopted.

131 (e) State land planning agency review.-

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

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

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

167 (f)~~(e)~~ *Local government review of comments; adoption of*
168 *plan or amendments and transmittal.*—

169 1. The local government shall review the report submitted
170 to it by the state land planning agency, if any, and written
171 comments submitted to it by any other person, agency, or
172 government. The local government, upon receipt of the report
173 from the state land planning agency, shall hold a ~~its~~ second
174 public hearing, ~~which shall be a hearing~~ to determine whether to

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

184 2. All comprehensive plan amendments adopted by the
185 governing body, along with the supporting data and analysis,
186 must shall be transmitted within 10 working days after the
187 second public hearing to the state land planning agency and any
188 other agency or local government that provided timely comments
189 under paragraph (c). Comprehensive plan amendments by a county
190 as defined in s. 125.011(1) or any municipality located therein
191 which apply to land within, or within 2 miles of, the Everglades
192 Protection Area as defined in s. 373.4592(2), such as lands
193 within Miami-Dade, Broward, or Monroe County, must also be
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 is ~~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 has ~~shall have~~ 45 days
212 to 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 is ~~shall be~~ limited to
216 objections raised in the objections, recommendations, and
217 comments report. During the period provided for in this
218 subparagraph, the state land planning agency shall issue,
219 through a senior administrator or the secretary, a notice of
220 intent to find that the plan or plan amendment is in compliance
221 or not in compliance. The state land planning agency shall post
222 a copy of the notice of intent on the agency's ~~Internet~~ website.
223 Publication by the state land planning agency of the notice of
224 intent on the state land planning agency's website is ~~Internet~~
225 ~~site shall be~~ prima facie evidence of compliance with the
226 publication requirements of this subparagraph.

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

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233 compliance.

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

236 (b) The state land planning agency may file a petition with
237 the Division of Administrative Hearings pursuant to ss. 120.569
238 and 120.57, with a copy served on the affected local government,
239 to request a formal hearing to challenge whether the plan or
240 plan amendment is in compliance as defined in paragraph (1)(b).
241 The state land planning agency's petition must clearly state the
242 reasons for the challenge. Under the expedited state review
243 process, this petition must be filed with the division within 30
244 days after the state land planning agency notifies the local
245 government that the plan amendment package is complete according
246 to subparagraph (3)(c)3. Under the state coordinated review
247 process, this petition must be filed with the division within 45
248 days after the state land planning agency notifies the local
249 government that the plan amendment package is complete according
250 to subparagraph (4)(f)3. ~~(4)(e)3.~~

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

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262 which the agencies provided comments but only upon a
263 determination by the state land planning agency that an
264 important state resource or facility will be adversely impacted.

265 2. If the state land planning agency issues a notice of
266 intent to find the comprehensive plan or plan amendment not in
267 compliance with this act, the notice of intent must ~~shall~~ be
268 forwarded to the Division of Administrative Hearings of the
269 Department of Management Services, which shall conduct a
270 proceeding under ss. 120.569 and 120.57 in the county of and
271 convenient to the affected local jurisdiction. The parties to
272 the proceeding must ~~shall~~ be the state land planning agency, the
273 affected local government, and any affected person who
274 intervenes. A ~~No~~ new issue may not be alleged as a reason to
275 find a plan or plan amendment not in compliance in an
276 administrative pleading filed more than 21 days after
277 publication of notice unless the party seeking that issue
278 establishes good cause for not alleging the issue within that
279 time period. Good cause does not include excusable neglect.

280 (11) PUBLIC HEARINGS.—

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

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291 by this subsection, except as provided in this part.

292 (14) This act may not be construed to limit the rights and
293 protections granted by s. 823.14.

294 Section 2. Subsections (1), (2), (3), and (5) of section
295 163.3187, Florida Statutes, are amended, and subsection (6) is
296 added to that section, to read:

297 163.3187 Process for adoption of small-scale ~~small-scale~~
298 comprehensive plan amendment.—

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

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

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

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

318 (d) The property located in Miami-Dade, Broward, or Monroe
319 County which is the subject of the proposed amendment by a

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320 county as defined in s. 125.011(1) or any municipality located
321 therein is not located in whole or in part within, or within 2
322 miles of, the Everglades Protection Area as defined in s.
323 373.4592(2).

324 (2) Small-scale ~~Small-scale~~ development amendments adopted
325 pursuant to this section require only one public hearing before
326 the governing board, which must ~~shall~~ be an adoption hearing as
327 described in s. 163.3184(11). Within 10 days after the adoption
328 of a small-scale development amendment by a county whose
329 boundaries include any portion of the Everglades Protection Area
330 as defined in s. 373.4592(2), a county and the municipalities
331 within that county shall transmit a copy of the amendment to the
332 state land planning agency for recordkeeping purposes.

333 (3) If the small-scale ~~small-scale~~ development amendment
334 involves a site within a rural area of opportunity as defined
335 under s. 288.0656(2)(d) for the duration of such designation,
336 the acreage limit listed in subsection (1) shall be increased by
337 100 percent. The local government approving the small-scale
338 ~~small-scale~~ plan amendment shall certify to the state land
339 planning agency that the plan amendment furthers the economic
340 objectives set forth in the executive order issued under s.
341 288.0656(7), and the property subject to the plan amendment
342 shall undergo public review to ensure that all concurrency
343 requirements and federal, state, and local environmental permit
344 requirements are met.

345 (5) (a) Any affected person may file a petition with the
346 Division of Administrative Hearings pursuant to ss. 120.569 and
347 120.57 to request a hearing to challenge the compliance of a
348 small-scale ~~small-scale~~ development amendment with this act

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349 within 30 days following the local government's adoption of the
350 amendment and shall serve a copy of the petition on the local
351 government. An administrative law judge shall hold a hearing in
352 the affected jurisdiction not less than 30 days nor more than 60
353 days following the filing of a petition and the assignment of an
354 administrative law judge. The parties to a hearing held pursuant
355 to this subsection shall be the petitioner, the local
356 government, and any intervenor. In the proceeding, the plan
357 amendment shall be determined to be in compliance if the local
358 government's determination that the small-scale ~~small-scale~~
359 development amendment is in compliance is fairly debatable. The
360 state land planning agency may not intervene in any proceeding
361 initiated pursuant to this section. The prevailing party in a
362 challenge filed under this paragraph is entitled to recover
363 attorney fees and costs in challenging or defending the order,
364 including reasonable appellate attorney fees and costs.

365 (b)1. If the administrative law judge recommends that the
366 small-scale ~~small-scale~~ development amendment be found not in
367 compliance, the administrative law judge shall submit the
368 recommended order to the Administration Commission for final
369 agency action. If the administrative law judge recommends that
370 the small-scale ~~small-scale~~ development amendment be found in
371 compliance, the administrative law judge shall submit the
372 recommended order to the state land planning agency.

373 2. If the state land planning agency determines that the
374 plan amendment is not in compliance, the agency shall submit,
375 within 30 days following its receipt, the recommended order to
376 the Administration Commission for final agency action. If the
377 state land planning agency determines that the plan amendment is

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378 in compliance, the agency shall enter a final order within 30
379 days following its receipt of the recommended order.

380 (c) Small-scale ~~small-scale~~ development amendments may not
381 become effective until 31 days after adoption. If challenged
382 within 30 days after adoption, small-scale ~~small-scale~~
383 development amendments may not become effective until the state
384 land planning agency or the Administration Commission,
385 respectively, issues a final order determining that the adopted
386 small-scale ~~small-scale~~ development amendment is in compliance.

387 (d) In all challenges under this subsection, when a
388 determination of compliance as defined in s. 163.3184(1)(b) is
389 made, consideration shall be given to the plan amendment as a
390 whole and whether the plan amendment furthers the intent of this
391 part.

392 (6) This section may not be construed to limit the rights
393 and protections granted by s. 823.14.

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

396 420.615 Affordable housing land donation density bonus
397 incentives.—

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

405 Section 4. This act shall take effect July 1, 2024.