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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; providing
8 duties of the Department of Environmental Protection
9 relating to such plans and plan amendments; providing
10 a condition for the adoption of such plans and plan
11 amendments upon a certain determination by the
12 department; specifying a requirement for the
13 transmittal of certain comprehensive plan amendments
14 to the department; making technical changes; providing
15 construction; amending s. 163.3187, F.S.; authorizing
16 site-specific text changes for small-scale future land
17 use map amendments; prohibiting the adoption of small-
18 scale development amendments for properties located
19 within or near the Everglades Protection Area;
20 requiring local governments whose boundaries include
21 any portion of the Everglades Protection Area to
22 transmit copies of adopted small-scale development
23 amendments to the state land planning agency within a
24 specified timeframe; providing that certain
25 comprehensive plan amendments are subject to the law
26 in effect at the time of the original submission;
27 making technical changes; providing construction;
28 amending s. 420.615, F.S.; conforming a cross-
29 reference; providing an effective date.

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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) 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.—

(a) *Coordination.*—The state land planning agency shall only 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 must ~~shall~~ be transmitted, adopted,
63 and reviewed in the manner prescribed in this subsection. The
64 state land planning agency shall have responsibility for plan
65 review, coordination, and the preparation and transmission of
66 comments, pursuant to this subsection, to the local governing
67 body 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 must ~~shall~~ clearly indicate on the cover
75 sheet that this plan amendment is subject to the state
76 coordinated review process of this subsection. The local
77 governing body shall also transmit a copy of the complete
78 proposed comprehensive plan or plan amendment to any other unit
79 of local government or government agency in the state that has
80 filed a written request with the governing body for the plan or
81 plan amendment.

82 (c) *Reviewing agency comments.*—The agencies specified in
83 paragraph (b) may provide comments regarding the plan or plan
84 amendments in accordance with subparagraphs (3)(b)2.-4. However,
85 comments on plans or plan amendments required to be reviewed
86 under the state coordinated review process must ~~shall~~ be sent to
87 the state land planning agency within 30 days after receipt by

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

99 (d) Everglades Protection Area determinations.—A proposed
100 plan or plan amendment by a county as defined in s. 125.011(1)
101 or any municipality located therein which applies to any land
102 within, or within 2 miles of, the Everglades Protection Area as
103 defined in s. 373.4592(2) must be reviewed pursuant to this
104 paragraph by the Department of Environmental Protection. The
105 department shall determine whether the proposed plan or plan
106 amendment, or any portion thereof, adversely impacts the
107 Everglades Protection Area or the Everglades restoration and
108 protection objectives identified in s. 373.4592. The department
109 shall issue a written determination to the state land planning
110 agency and the local government within 30 days after receipt of
111 the proposed plan or plan amendment. The determination must
112 identify any adverse impacts and may be provided as part of the
113 agency's comments pursuant to paragraph (c). Before the adoption
114 of the proposed plan or plan amendment, the department shall
115 work in coordination with the state land planning agency and the
116 local government to identify any planning strategies or measures

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

130 (e) State land planning agency review.-

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

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

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

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

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

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

183 2. All comprehensive plan amendments adopted by the
184 governing body, along with the supporting data and analysis,
185 must ~~shall~~ be transmitted within 10 working days after the
186 second public hearing to the state land planning agency and any
187 other agency or local government that provided timely comments
188 under paragraph (c). Comprehensive plan amendments by a county
189 as defined in s. 125.011(1) or any municipality located therein
190 which apply to land within, or within 2 miles of, the Everglades
191 Protection Area as defined in s. 373.4592(2) must also be
192 transmitted within 10 working days after the second public
193 hearing to the Department of Environmental Protection.

194 3. The state land planning agency shall notify the local
195 government of any deficiencies within 5 working days after
196 receipt of a plan or plan amendment package. For purposes of
197 completeness, a plan or plan amendment is ~~shall be~~ deemed
198 complete if it contains a full, executed copy of the adoption
199 ordinance or ordinances; in the case of a text amendment, a full
200 copy of the amended language in legislative format with new
201 words inserted in the text underlined, and words deleted
202 stricken with hyphens; in the case of a future land use map
203 amendment, a copy of the future land use map clearly depicting

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204 the parcel, its existing future land use designation, and its
205 adopted designation; and a copy of any data and analyses the
206 local government deems appropriate.

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

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

232 (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN

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233 AMENDMENTS.—

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

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

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262 important state resource or facility will be adversely impacted.

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

278 (11) PUBLIC HEARINGS.—

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

290 (14) This act may not be construed to limit the rights and

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291 protections granted by s. 823.14.

292 Section 2. Subsections (1), (2), (3), and (5) of section
293 163.3187, Florida Statutes, are amended, and subsections (6) and
294 (7) are added to that section, to read:

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

297 (1) A small-scale ~~small-scale~~ development amendment may be
298 adopted if 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 ~~small-scale~~
305 development activity. However, site-specific text changes that
306 relate directly to, and are adopted simultaneously with, the
307 small-scale ~~small-scale~~ future land use map amendment are ~~shall~~
308 ~~be~~ permissible 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 by a county as defined in s. 125.011(1) or any
318 municipality located therein is not located in whole or in part
319 within, or within 2 miles of, the Everglades Protection Area as

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320 defined in s. 373.4592(2).

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

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

342 (5) (a) Any affected person may file a petition with the
343 Division of Administrative Hearings pursuant to ss. 120.569 and
344 120.57 to request a hearing to challenge the compliance of a
345 small-scale ~~small-scale~~ development amendment with this act
346 within 30 days following the local government's adoption of the
347 amendment and shall serve a copy of the petition on the local
348 government. An administrative law judge shall hold a hearing in

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

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

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

377 (c) Small-scale ~~small-scale~~ development amendments may not

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

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

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

391 (7) A comprehensive plan amendment under review by an
392 appellate court before July 1, 2024, which is resubmitted to the
393 local government for reconsideration is subject to the law in
394 effect at the time of the original submission.

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

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

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

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