

1 A bill to be entitled
2 An act relating to Charlotte County; providing
3 legislative findings of fact that certain islands are
4 fragile barrier islands of particular natural beauty
5 containing abundant plant, marine, animal and bird
6 life; providing for the creation of the Bocilla
7 Islands Chain Conservation District; establishing the
8 district boundaries; restricting the density of
9 dwelling units; restricting the commercial, industrial
10 or multi-family use of land to those lands zoned for
11 such uses prior to the effective date of this act;
12 providing height limitations on all buildings and
13 structures erected within the district; restricting
14 the expansion of infrastructure; providing that this
15 act shall not repeal applicable local government
16 comprehensive plans, state and local land development
17 regulations, air and water quality, infrastructure,
18 and conservation regulations; providing an exemption;
19 providing that this act shall prevail where it is more
20 restrictive than such regulations; providing
21 severability; providing that any real property owner
22 in the district may enforce the provisions of this act
23 by legal proceeding; providing that this act shall be
24 recorded in the public records of Charlotte County;
25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
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29 **Section 1.** Findings of fact.—The Legislature of the State
30 of Florida hereby finds that the Bocilla Islands Chain of
31 bridgeless barrier islands, including Thornton Key, Palm Island,
32 Knight Island, Don Pedro Island, and Little Gasparilla Island,
33 including all adjacent submerged lands, tidal lands, overflow
34 lands, and tidal ponds, are fragile barrier islands as defined
35 in the Presidential Directive on Barrier Islands dated May 23,
36 1977, and are areas of particular natural beauty containing
37 abundant plant, marine, animal, and bird life, including
38 threatened and endangered species. The conservation of the
39 natural beauty, plant, marine, animal, and bird life of the
40 islands is in the best interest of the residents, visitors, and
41 property owners of the islands and the citizens of Charlotte
42 County and the State of Florida. The State of Florida Office of
43 the Governor Executive Order 81-105 also encourages, in
44 cooperation with local governments, appropriate growth
45 management in coastal barrier areas. The manner and extent to
46 which development of the islands is permitted to occur will have
47 a substantial effect on the ecology and natural beauty of the
48 islands. In order to preserve and conserve the fragile
49 ecosystems and natural characteristics of the islands, it is
50 necessary to restrict by this act land uses and the height and

51 density of structures and to prohibit the expansion of
52 infrastructure beyond established provision. The purpose of this
53 act is to permit limited development of the islands while
54 preserving the natural beauty and plant, marine, animal, and
55 bird life.

56 **Section 2.** Short title.—This act may be cited as the
57 "Bocilla Islands Chain Conservation District Act."

58 **Section 3.** District creation and boundaries.—There is
59 hereby created a special conservation district, for the uses and
60 purposes set forth herein, known as the "Bocilla Islands Chain,"
61 including Thornton Key, Palm Island, Knight Island, Don Pedro
62 Island, and Little Gasparilla Island, situated in Charlotte
63 County, including all adjacent submerged lands, tidal lands,
64 overflow lands, and tidal ponds.

65 **Section 4.** Restrictions on density, land uses, height, and
66 infrastructure.—

67 (1) The density of any development which includes dwelling
68 units shall not exceed one single family residential dwelling
69 unit per acre or one single family residential dwelling unit per
70 platted lot, with exceptions for existing planned developments
71 or parcels legally created before the effective date of this
72 act. In computing such density, only contiguous land under
73 single ownership may be utilized, consistent with the Property
74 Rights Element of the Comprehensive Plan as required by s.
75 163.3177, F.S.

76 (2) A single-family dwelling may be constructed on lands
77 zoned for such use, including lots which were legally created,
78 platted, and recorded prior to the effective date of this act or
79 lands re-zoned for single-family use prior to the effective date
80 of this act. Notwithstanding, the use of nonconforming lots
81 shall be governed by local zoning regulations. Nonconforming
82 lots of record may be developed provided the burden of proof to
83 establish that the lot is legally nonconforming and legally
84 existing on October 22, 1990, shall be with the owner.

85 (3) No land within the district shall be used for
86 commercial, industrial, or multi-family purposes except land
87 that was zoned for such uses prior to the effective date of this
88 act. The following special exemption uses may be permitted:

89 (a) Golf cart rental, sales, and service.

90 (b) Barge and ferry landing sites.

91 (c) Essential services and emergency services.

92 (4) No building or other structure shall be erected or
93 altered within the district so that the midpoint of the peak of
94 the roof is more than thirty-five (35) feet from the lowest
95 habitable floor for which a building permit can be issued to the
96 highest point of a flat roof and mansard roof, or to the mid-
97 point height between the eaves and ridge of gable, hip, and
98 gambrel roof.

99 (5) In order to support appropriate growth management, the
100 Bocilla Islands Chain shall remain consistent with the

101 definition of the "Rural Service Area" as described in Charlotte
102 County's Comprehensive Plan "Charlotte 2050" Future Land Use
103 element Policy 3.2.4: Limitation on the Expansion of Urban
104 Infrastructure. No expansion of infrastructure shall be
105 constructed or approved except to address situations where the
106 public health, safety, and welfare are in danger. In addition,
107 exceptions to this provision may be allowed for the maintenance
108 or repair of existing utility lines, or improvements to existing
109 infrastructure as necessary to maintain public safety.

110 (6) This section shall not render legally existing
111 structures or legally existing infrastructure unlawful. The
112 county code remains applicable.

113 (7) Property owners may exercise those property rights
114 through the Property Rights Element of the Comprehensive Plan as
115 required in s. 163.3177, F.S. In no case shall the residential
116 density units, land uses, and building heights as established in
117 this act be amended or altered by the local government.

118 (8) Nothing herein shall abridge the rights of property
119 owners in accordance with the Charlotte County Comprehensive
120 Plan "Charlotte 2050" and s. 163.3177, F.S.

121 **Section 5. Rules of construction.**

122 (1) This act shall not be construed as limiting the
123 application of or repealing any local comprehensive plan or law
124 or rule dealing with the subject of zoning, conservation,
125 infrastructure, or air and water quality standards, but if any

126 of the standards specified by this act are more restrictive than
127 those specified in such other plan, law, or rule, the standards
128 specified by this act shall prevail.

129 (2) If any provision of this act or the application
130 thereof to any person or circumstance is held invalid, the
131 invalidity shall not affect other provisions or applications of
132 the act which can be given effect without the invalid provision
133 or application, and to this end the provisions of this act are
134 declared severable.

135 **Section 6.** Any owner of real property within the district
136 may enjoin the violation of this act or enforce the provisions
137 of this act by instituting civil proceedings filed in a court of
138 competent jurisdiction. In order to enforce the provisions of
139 this act or to enjoin a violation of same, a real property owner
140 need not allege or prove that the violation of this act will
141 adversely affect the property rights of said real property owner
142 to any greater extent or different degree than said violation
143 will affect any other real property owner within the district. A
144 real property owner who is successful in his or her efforts to
145 enforce this act through civil proceedings shall be awarded a
146 reasonable attorney's fee and court costs which shall be
147 assessed as a judgment against the person or persons determined
148 by the court to have violated this act. No action by any county
149 commission shall be required as a condition precedent to
150 enforcement of this act pursuant to this section.

151 **Section 7.** Recording of the act.—The Secretary of State
152 shall cause a certified copy of this act to be recorded with the
153 Clerk of the Circuit Court of Charlotte County in the Official
154 Records of the county within 30 days of this act becoming law.

155 **Section 8.** This act shall take effect upon becoming a law.