Bill No. CS/HB 7129 (2011)

Amendment No. CHAMBER ACTION Senate House 1 Representative Workman offered the following: 2 3 Amendment (with title amendment) 4 Remove line 1789 and insert: 5 380.0651(3)(h)(j), housing for low-income, very low-income, and 6 7 Remove lines 7528-7533 and insert: 8 Section 52. Paragraph (d) of subsection (2), paragraph (b) 9 of subsection (6), paragraphs (c) and (e) of subsection (19), 10 subsection (24), paragraph (e) of subsection (28), and paragraphs (a), (d), and (e) of subsection (29) of section 11 380.06, Florida Statutes, are amended, and subsection (30) is 12 added to that section, to read: 13 14 380.06 Developments of regional impact.-(2) STATEWIDE GUIDELINES AND STANDARDS.-15 337701 Approved For Filing: 4/19/2011 1:04:11 PM Page 1 of 20

Amendment No.

16 (d) The guidelines and standards shall be applied as 17 follows:

18

1. Fixed thresholds.-

a. A development that is below 100 percent of all
numerical thresholds in the guidelines and standards shall not
be required to undergo development-of-regional-impact review.

b. A development that is at or above 120 percent of any numerical threshold shall be required to undergo development-ofregional-impact review.

25 с. Projects certified under s. 403.973 which create at 26 least 100 jobs and meet the criteria of the Office of Tourism, 27 Trade, and Economic Development as to their impact on an area's 28 economy, employment, and prevailing wage and skill levels that 29 are at or below 100 percent of the numerical thresholds for industrial plants, industrial parks, distribution, warehousing 30 or wholesaling facilities, office development or multiuse 31 32 projects other than residential, as described in s. 33 380.0651(3)(c), (d), and (f), are not required to undergo 34 development-of-regional-impact review.

35 2. Rebuttable presumption.—It shall be presumed that a 36 development that is at 100 percent or between 100 and 120 37 percent of a numerical threshold shall be required to undergo 38 development-of-regional-impact review.

39

40

Between lines 7633 and 7634, insert:

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order that individually or cumulatively with any 337701 Approved For Filing: 4/19/2011 1:04:11 PM

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Amendment No. 44 previous change is less than any numerical criterion contained 45 in subparagraphs (b)1.-13. and does not exceed any other 46 criterion, or that involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not 47 subject to the public hearing requirements of subparagraph 48 49 (f)3., and is not subject to a determination pursuant to 50 subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning 51 52 agency. Such notice shall include a description of previous 53 individual changes made to the development, including changes 54 previously approved by the local government, and shall include 55 appropriate amendments to the development order.

56 2. The following changes, individually or cumulatively57 with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner,or monitoring official.

b. Changes to a setback that do not affect noise buffers,
environmental protection or mitigation areas, or archaeological
or historical resources.

63

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads that donot affect external access points.

e. Changes to the building design or orientation that stay
approximately within the approved area designated for such
building and parking lot, and which do not affect historical
buildings designated as significant by the Division of
Historical Resources of the Department of State.

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f. Changes to increase the acreage in the development, provided that no development is proposed on the acreage to be added.

74 g. Changes to eliminate an approved land use, provided75 that there are no additional regional impacts.

h. Changes required to conform to permits approved by any
federal, state, or regional permitting agency, provided that
these changes do not create additional regional impacts.

i. Any renovation or redevelopment of development within a
previously approved development of regional impact which does
not change land use or increase density or intensity of use.

82 j. Changes that modify boundaries and configuration of 83 areas described in subparagraph (b)14. due to science-based refinement of such areas by survey, by habitat evaluation, by 84 other recognized assessment methodology, or by an environmental 85 assessment. In order for changes to qualify under this sub-86 87 subparagraph, the survey, habitat evaluation, or assessment must occur prior to the time a conservation easement protecting such 88 89 lands is recorded and must not result in any net decrease in the 90 total acreage of the lands specifically set aside for permanent preservation in the final development order. 91

92 k. Any other change which the state land planning agency, 93 in consultation with the regional planning council, agrees in 94 writing is similar in nature, impact, or character to the 95 changes enumerated in sub-subparagraphs a.-j. and which does not 96 create the likelihood of any additional regional impact.

97

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Amendment No. 98 This subsection does not require the filing of a notice of 99 proposed change but shall require an application to the local 100 government to amend the development order in accordance with the 101 local government's procedures for amendment of a development 102 order. In accordance with the local government's procedures, 103 including requirements for notice to the applicant and the 104 public, the local government shall either deny the application 105 for amendment or adopt an amendment to the development order 106 which approves the application with or without conditions. 107 Following adoption, the local government shall render to the 108 state land planning agency the amendment to the development 109 order. The state land planning agency may appeal, pursuant to s. 110 380.07(3), the amendment to the development order if the amendment involves sub-subparagraph g., sub-subparagraph h., 111 sub-subparagraph j., or sub-subparagraph k., and it believes the 112 113 change creates a reasonable likelihood of new or additional 114 regional impacts.

3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously
approved development shall include a description of individual
changes previously made to the development, including changes
previously approved by the local government. The local
government shall consider the previous and current proposed
changes in deciding whether such changes cumulatively constitute
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Amendment No.

126 a substantial deviation requiring further development-of-127 regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence.

a. A change proposed for 15 percent or more of the acreage
to a land use not previously approved in the development order.
Changes of less than 15 percent shall be presumed not to create
a substantial deviation.

b. Notwithstanding any provision of paragraph (b) to the
contrary, a proposed change consisting of simultaneous increases
and decreases of at least two of the uses within an authorized
multiuse development of regional impact which was originally
approved with three or more uses specified in s. 380.0651(3)(c),
(d), and (e), and (f) and residential use.

- 142
- 143 144

Remove lines 7816-7949 and insert:

145 2. Any proposed development within a county, including the 146 <u>municipalities located in the county</u>, that <u>has an average of at</u> 147 <u>least 1,000 people per square mile of land area</u> qualifies as a 148 dense urban land area as defined in s. 163.3164 and that is 149 located within an urban service area as defined in s. 163.3164 150 which has been adopted into the comprehensive plan; or

151 3. Any proposed development within a county, including the 152 municipalities located therein, which has a population of at 153 least 900,000, <u>that has an average of at least 1,000 people per</u> 337701 Approved For Filing: 4/19/2011 1:04:11 PM

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154	Amendment No. square mile of land area which qualifies as a dense urban land
155	area under s. 163.3164, but which does not have an urban service
156	area designated in the comprehensive plan; or
157	4. Any proposed development within a county, including the
158	municipalities located therein, which has a population of at
159	least 1 million and is located within an urban service area as
160	defined in s. 163.3164 which has been adopted into the
161	comprehensive plan.
162	
163	The Office of Economic and Demographic Research within the
164	Legislature shall annually calculate the population and density
165	criteria needed to determine which jurisdictions meet the
166	density criteria in subparagraphs 14. by using the most recent
167	land area data from the decennial census conducted by the Bureau
168	of the Census of the United States Department of Commerce and
169	the latest available population estimates determined pursuant to
170	s. 186.901. If any local government has had an annexation,
171	contraction, or new incorporation, the Office of Economic and
172	Demographic Research shall determine the population density
173	using the new jurisdictional boundaries as recorded in
174	accordance with s. 171.091. The Office of Economic and
175	Demographic Research shall annually submit to the state land
176	planning agency by July 1 a list of jurisdictions that meet the
177	total population and density criteria. The state land planning
178	agency shall publish the list of jurisdictions on its Internet
179	website within 7 days after the list is received. The
180	designation of jurisdictions that meet the density criteria of
181	subparagraphs 14. is effective upon publication on the state
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Amendment No. 182 land planning agency's Internet website. If a municipality that 183 has previously met the density criteria no longer meets the 184 criteria, the state land planning agency shall maintain the 185 municipality on the list and indicate the year the jurisdiction 186 last met the density criteria. However, any proposed development 187 of regional impact not within the established boundaries of a 188 municipality at the time the municipality met the density requirement must meet the requirements of this section. Any 189 190 county that meets the density criteria shall remain on the list 191 in accordance with the provisions of this section until such 192 time as the municipality as a whole meets the density criteria. 193 Any local government that was placed on the list before the 194 effective date of this act shall remain on the list in 195 accordance with the provisions of this section. A development that is located partially outside an 196 (d) 197 area that is exempt from the development-of-regional-impact program must undergo development-of-regional-impact review 198 199 pursuant to this section. However, if the total acreage that is 200 included within the area exempt from development-of-regional-201 impact review exceeds 85 percent of the total acreage and square 202 footage of the approved development of regional impact, the 203 development-of-regional-impact development order may be 204 rescinded in both local governments pursuant to s. 380.115(1), 205 unless the portion of the development outside the exempt area 206 meets the threshold criteria of a development-of-regional-207 impact. 208 In an area that is exempt under paragraphs (a)-(c), (e) any previously approved development-of-regional-impact 209 337701 Approved For Filing: 4/19/2011 1:04:11 PM Page 8 of 20

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Amendment No. 210 development orders shall continue to be effective, but the 211 developer has the option to be governed by s. 380.115(1). A 212 pending application for development approval shall be governed 213 by s. 380.115(2). A development that has a pending application 214 for a comprehensive plan amendment and that elects not to continue development-of-regional-impact review is exempt from 215 the limitation on plan amendments set forth in s. 163.3187(1) 216 217 for the year following the effective date of the exemption. 218

Section 53. Subsection (3) and paragraph (a) of subsection (4) of section 380.0651, Florida Statutes, are amended to read: 380.0651 Statewide guidelines and standards.-

(3) The following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments shall be required to undergo development-of-regional-impact review:

225 (a)

Any of the following airport construction projects
 shall be a development of regional impact:

a. A new commercial service or general aviation airportwith paved runways.

b. A new commercial service or general aviation pavedrunway.

232

c. A new passenger terminal facility.

Airports.-

233 2. Lengthening of an existing runway by 25 percent or an 234 increase in the number of gates by 25 percent or three gates, 235 whichever is greater, on a commercial service airport or a 236 general aviation airport with regularly scheduled flights is a 237 development of regional impact. However, expansion of existing 337701 Approved For Filing: 4/19/2011 1:04:11 PM

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Amendment No. 238 terminal facilities at a nonhub or small hub commercial service 239 airport shall not be a development of regional impact. 240 3. Any airport development project which is proposed for 241 safety, repair, or maintenance reasons alone and would not have the potential to increase or change existing types of aircraft 242 243 activity is not a development of regional impact. Notwithstanding subparagraphs 1. and 2., renovation, 244 245 modernization, or replacement of airport airside or terminal 246 facilities that may include increases in square footage of such 247 facilities but does not increase the number of gates or change 248 the existing types of aircraft activity is not a development of 249 regional impact. 250 (b) Attractions and recreation facilities.-Any sports, 251 entertainment, amusement, or recreation facility, including, but 252 not limited to, a sports arena, stadium, racetrack, tourist 253 attraction, amusement park, or pari-mutuel facility, the construction or expansion of which: 254 255 For single performance facilities: 1.

256 Provides parking spaces for more than 2,500 cars; or a.

257 b. Provides more than 10,000 permanent seats for 258 spectators.

259

2. For serial performance facilities:

260 Provides parking spaces for more than 1,000 cars; or a.

261 b. Provides more than 4,000 permanent seats for 262 spectators.

263

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Amendment No. 264 For purposes of this subsection, "serial performance facilities" 265 means those using their parking areas or permanent seating more 266 than one time per day on a regular or continuous basis. 267 3. For multiscreen movie theaters of at least 8 screens 268 and 2,500 seats: 269 a. Provides parking spaces for more than 1,500 cars; or 270 b. Provides more than 6,000 permanent seats for 271 spectators. 272 (c) Industrial plants, industrial parks, and distribution, 273 warehousing or wholesaling facilities .- Any proposed industrial, 274 manufacturing, or processing plant, or distribution, 275 warehousing, or wholesaling facility, excluding wholesaling 276 developments which deal primarily with the general public 277 onsite, under common ownership, or any proposed industrial, 278 manufacturing, or processing activity or distribution, 279 warehousing, or wholesaling activity, excluding wholesaling 280 activities which deal primarily with the general public onsite, 281 which: 282 1. Provides parking for more than 2,500 motor vehicles; or 283 2. Occupies a site greater than 320 acres. (c) (d) Office development. - Any proposed office building or 284 285 park operated under common ownership, development plan, or 286 management that: 287 1. Encompasses 300,000 or more square feet of gross floor 288 area; or 289 Encompasses more than 600,000 square feet of gross 2. 290 floor area in a county with a population greater than 500,000 291 and only in a geographic area specifically designated as highly 337701 Approved For Filing: 4/19/2011 1:04:11 PM Page 11 of 20

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Amendment No.

292 suitable for increased threshold intensity in the approved local 293 comprehensive plan.

294 <u>(d) (e)</u> Retail and service development.—Any proposed 295 retail, service, or wholesale business establishment or group of 296 establishments which deals primarily with the general public 297 onsite, operated under one common property ownership, 298 development plan, or management that:

299 1. Encompasses more than 400,000 square feet of gross
 300 area; or

301 2.

302

(f) Hotel or motel development.-

303 1. Any proposed hotel or motel development that is planned 304 to create or accommodate 350 or more units; or

Provides parking spaces for more than 2,500 cars.

305 2. Any proposed hotel or motel development that is planned 306 to create or accommodate 750 or more units, in a county with a 307 population greater than 500,000.

308 <u>(e)(g)</u> Recreational vehicle development.—Any proposed 309 recreational vehicle development planned to create or 310 accommodate 500 or more spaces.

311 (f) (h) Multiuse development. - Any proposed development with 312 two or more land uses where the sum of the percentages of the 313 appropriate thresholds identified in chapter 28-24, Florida 314 Administrative Code, or this section for each land use in the 315 development is equal to or greater than 145 percent. Any 316 proposed development with three or more land uses, one of which 317 is residential and contains at least 100 dwelling units or 15 percent of the applicable residential threshold, whichever is 318 319 greater, where the sum of the percentages of the appropriate 337701 Approved For Filing: 4/19/2011 1:04:11 PM Page 12 of 20

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320 thresholds identified in chapter 28-24, Florida Administrative 321 Code, or this section for each land use in the development is 322 equal to or greater than 160 percent. This threshold is in 323 addition to, and does not preclude, a development from being 324 required to undergo development-of-regional-impact review under 325 any other threshold.

Amendment No.

326 (q) (i) Residential development.-No rule may be adopted 327 concerning residential developments which treats a residential 328 development in one county as being located in a less populated 329 adjacent county unless more than 25 percent of the development is located within 2 or less miles of the less populated adjacent 330 331 county. The residential thresholds of adjacent counties with 332 less population and a lower threshold shall not be controlling on any development wholly located within areas designated as 333 334 rural areas of critical economic concern.

335 (h) (j) Workforce housing. - The applicable guidelines for 336 residential development and the residential component for 337 multiuse development shall be increased by 50 percent where the 338 developer demonstrates that at least 15 percent of the total 339 residential dwelling units authorized within the development of regional impact will be dedicated to affordable workforce 340 341 housing, subject to a recorded land use restriction that shall 342 be for a period of not less than 20 years and that includes 343 resale provisions to ensure long-term affordability for income-344 eligible homeowners and renters and provisions for the workforce housing to be commenced prior to the completion of 50 percent of 345 346 the market rate dwelling. For purposes of this paragraph, the 347 term "affordable workforce housing" means housing that is 337701 Approved For Filing: 4/19/2011 1:04:11 PM

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348 affordable to a person who earns less than 120 percent of the 349 area median income, or less than 140 percent of the area median 350 income if located in a county in which the median purchase price 351 for a single-family existing home exceeds the statewide median 352 purchase price of a single-family existing home. For the 353 purposes of this paragraph, the term "statewide median purchase 354 price of a single-family existing home" means the statewide 355 purchase price as determined in the Florida Sales Report, 356 Single-Family Existing Homes, released each January by the 357 Florida Association of Realtors and the University of Florida 358 Real Estate Research Center.

359

(i)(k) Schools.-

Amendment No.

1. The proposed construction of any public, private, or proprietary postsecondary educational campus which provides for a design population of more than 5,000 full-time equivalent students, or the proposed physical expansion of any public, private, or proprietary postsecondary educational campus having such a design population that would increase the population by at least 20 percent of the design population.

367 2. As used in this paragraph, "full-time equivalent 368 student" means enrollment for 15 or more quarter hours during a 369 single academic semester. In career centers or other 370 institutions which do not employ semester hours or quarter hours 371 in accounting for student participation, enrollment for 18 372 contact hours shall be considered equivalent to one guarter 373 hour, and enrollment for 27 contact hours shall be considered 374 equivalent to one semester hour.

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Amendment No.

375 3. This paragraph does not apply to institutions which are 376 the subject of a campus master plan adopted by the university 377 board of trustees pursuant to s. 1013.30.

378 (4) Two or more developments, represented by their owners 379 or developers to be separate developments, shall be aggregated 380 and treated as a single development under this chapter when they 381 are determined to be part of a unified plan of development and 382 are physically proximate to one other.

(a) The criteria of <u>three</u> two of the following
subparagraphs must be met in order for the state land planning
agency to determine that there is a unified plan of development:

386 1.a. The same person has retained or shared control of the 387 developments;

388 b. The same person has ownership or a significant legal or389 equitable interest in the developments; or

390 c. There is common management of the developments
 391 controlling the form of physical development or disposition of
 392 parcels of the development.

2. There is a reasonable closeness in time between the completion of 80 percent or less of one development and the submission to a governmental agency of a master plan or series of plans or drawings for the other development which is indicative of a common development effort.

398 3. A master plan or series of plans or drawings exists 399 covering the developments sought to be aggregated which have 400 been submitted to a local general-purpose government, water 401 management district, the Florida Department of Environmental 402 Protection, or the Division of Florida Condominiums, Timeshares, 337701 Approved For Filing: 4/19/2011 1:04:11 PM Page 15 of 20

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403 and Mobile Homes for authorization to commence development. The 404 existence or implementation of a utility's master utility plan 405 required by the Public Service Commission or general-purpose 406 local government or a master drainage plan shall not be the sole 407 determinant of the existence of a master plan.

4. The voluntary sharing of infrastructure that is 408 409 indicative of a common development effort or is designated 410 specifically to accommodate the developments sought to be 411 aggregated, except that which was implemented because it was 412 required by a local general-purpose government; water management 413 district; the Department of Environmental Protection; the Division of Florida Condominiums, Timeshares, and Mobile Homes; 414 415 or the Public Service Commission.

416 <u>4.5.</u> There is a common advertising scheme or promotional
417 plan in effect for the developments sought to be aggregated.
418 Section 54. Subsection (17) of section 331.303, Florida
419 Statutes, is amended to read:

420

331.303 Definitions.-

Amendment No.

(17) "Spaceport launch facilities" means industrial facilities as described in s. 380.0651(3)(c), Florida Statutes 2010, and include any launch pad, launch control center, and fixed launch-support equipment.

425 Section 55. Subsection (1) of section 380.115, Florida 426 Statutes, is amended to read:

427 380.115 Vested rights and duties; effect of size
428 reduction, changes in guidelines and standards.-

(1) A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other 337701 Approved For Filing: 4/19/2011 1:04:11 PM

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Amendment No. 431 right or any duty or obligation pursuant to any development 432 order or agreement that is applicable to a development of 433 regional impact. A development that has received a development-434 of-regional-impact development order pursuant to s. 380.06, but 435 is no longer required to undergo development-of-regional-impact 436 review by operation of a change in the guidelines and standards or has reduced its size below the thresholds in s. 380.0651, or 437 438 a development that is exempt pursuant to s. 380.06(29) shall be 439 governed by the following procedures:

The development shall continue to be governed by the 440 (a) 441 development-of-regional-impact development order and may be 442 completed in reliance upon and pursuant to the development order 443 unless the developer or landowner has followed the procedures for rescission in paragraph (b). Any proposed changes to those 444 developments which continue to be governed by a development 445 order shall be approved pursuant to s. 380.06(19) as it existed 446 447 prior to a change in the development-of-regional-impact quidelines and standards, except that all percentage criteria 448 shall be doubled and all other criteria shall be increased by 10 449 450 percent. The development-of-regional-impact development order 451 may be enforced by the local government as provided by ss. 452 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed.

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Amendment No.

459 Section 56. Paragraph (a) of subsection (8) of section 460 380.061, Florida Statutes, is amended to read:

461

380.061 The Florida Quality Developments program.-

462 (8) (a) Any local government comprehensive plan amendments 463 related to a Florida Quality Development may be initiated by a 464 local planning agency and considered by the local governing body 465 at the same time as the application for development approval, 466 using the procedures provided for local plan amendment in s. 467 163.3187 or s. 163.3189 and applicable local ordinances, without 468 regard to statutory or local ordinance limits on the frequency 469 of consideration of amendments to the local comprehensive plan. 470 Nothing in this subsection shall be construed to require 471 favorable consideration of a Florida Quality Development solely 472 because it is related to a development of regional impact.

473Section 57. Paragraph (a) of subsection (2) and subsection474(10) of section 380.065, Florida Statutes, are amended to read:

475 380.065 Certification of local government review of476 development.-

(2) When a petition is filed, the state land planning agency shall have no more than 90 days to prepare and submit to the Administration Commission a report and recommendations on the proposed certification. In deciding whether to grant certification, the Administration Commission shall determine whether the following criteria are being met:

(a) The petitioning local government has adopted and
effectively implemented a local comprehensive plan and
development regulations which comply with ss. 163.3161-163.3215,

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Amendment No. 486 the Community Local Government Comprehensive Planning and Land 487 Development Regulation Act. 488 (10) The department shall submit an annual progress report 489 to the President of the Senate and the Speaker of the House of 490 Representatives by March 1 on the certification of local 491 governments, stating which local governments have been 492 certified. For those local governments which have applied for 493 certification but for which certification has been denied, the 494 department shall specify the reasons certification was denied. 495 496 497 498 TITLE AMENDMENT Remove lines 118-135 and insert: 499 500 developments of regional impact; revising provisions to conform 501 to changes made by this act; amending s. 380.0651, F.S.; 502 revising provisions relating to statewide guidelines and 503 standards for certain multiscreen movie theaters, industrial 504 plants, industrial parks, distribution, warehousing and 505 wholesaling facilities, and hotels and motels; revising criteria 506 for the determination of when to treat two or more developments 507 as a single development; amending s. 331.303, F.S.; conforming a 508 cross-reference; amending s. 380.115, F.S.; subjecting certain 509 developments required to undergo development-of-regional-impact 510 review to certain procedures; amending s. 380.065, F.S.; deleting certain reporting requirements; conforming provisions 511 to changes made by the act; amending s. 380.0685, F.S., relating 512 513 to use of surcharges for beach renourishment and restoration; 337701 Approved For Filing: 4/19/2011 1:04:11 PM

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514	Amendment No. repealing Rules 9J-5 and 9J-11.023, Florida Administrative Code,
515	relating to minimum criteria for review of local government
516	comprehensive plans and plan amendments, evaluation and
517	appraisal reports, land development regulations, and
518	determinations of compliance; amending ss. 70.51, 163.06,
519	163.2517, 163.3162, 163.3217, 163.3220, 163.3221, 163.3229,
520	163.360, 163.516, 171.203, 186.513, 189.415, 190.004, 190.005,
521	193.501, 287.042, 288.063, 288.975, 290.0475, 311.07, 331.319,
522	339.155, 339.2819, 369.303, 369.321, 378.021, 380.115, 380.031,
523	380.061, 403.50665, 403.973, 420.5095,