

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Clemens offered the following:

2  
3 **Amendment**

4 Remove lines 352-662 and insert:

5 Section 6. Section 163.3164, Florida Statutes, is amended  
6 to read:

7 163.3164 Community ~~Local Government Comprehensive Planning~~  
8 ~~and Land Development Regulation Act; definitions.~~ It is the  
9 intent of the Legislature to protect the rights of all Florida  
10 citizens, protect the economy, provide for the education of  
11 children, promote healthy communities, provide efficient  
12 transportation, and protect the environment by requiring  
13 developers to provide the infrastructure and services required  
14 by new developments so the costs of accommodating new residents  
15 is not passed on to existing taxpayers. As used in this act:

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16 (1) "Administration Commission" means the Governor and the  
17 Cabinet, and for purposes of this chapter the commission shall  
18 act on a simple majority vote, except that for purposes of  
19 imposing the sanctions provided in s. 163.3184(8)~~(11)~~,  
20 affirmative action shall require the approval of the Governor  
21 and at least two ~~three~~ other members of the commission.

22 (2) "Affordable housing" has the same meaning as in s.  
23 420.0004(3).

24 (3)~~(33)~~ "Agricultural enclave" means an unincorporated,  
25 undeveloped parcel that:

26 (a) Is owned by a single person or entity;

27 (b) Has been in continuous use for bona fide agricultural  
28 purposes, as defined by s. 193.461, for a period of 5 years  
29 prior to the date of any comprehensive plan amendment  
30 application;

31 (c) Is surrounded on at least 75 percent of its perimeter  
32 by:

33 1. Property that has existing industrial, commercial, or  
34 residential development; or

35 2. Property that the local government has designated, in  
36 the local government's comprehensive plan, zoning map, and  
37 future land use map, as land that is to be developed for  
38 industrial, commercial, or residential purposes, and at least 75  
39 percent of such property is existing industrial, commercial, or  
40 residential development;

41 (d) Has public services, including water, wastewater,  
42 transportation, schools, and recreation facilities, available or  
43 such public services are scheduled in the capital improvement  
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44 element to be provided by the local government or can be  
45 provided by an alternative provider of local government  
46 infrastructure in order to ensure consistency with applicable  
47 concurrency provisions of s. 163.3180; and

48 (e) Does not exceed 1,280 acres; however, if the property  
49 is surrounded by existing or authorized residential development  
50 that will result in a density at buildout of at least 1,000  
51 residents per square mile, then the area shall be determined to  
52 be urban and the parcel may not exceed 4,480 acres.

53 (4) "Antiquated subdivision" means a subdivision that was  
54 recorded or approved more than 20 years ago and that has  
55 substantially failed to be built and the continued buildout of  
56 the subdivision in accordance with the subdivision's zoning and  
57 land use purposes would cause an imbalance of land uses and  
58 would be detrimental to the local and regional economies and  
59 environment, hinder current planning practices, and lead to  
60 inefficient and fiscally irresponsible development patterns as  
61 determined by the respective jurisdiction in which the  
62 subdivision is located.

63 (5)-(2) "Area" or "area of jurisdiction" means the total  
64 area qualifying under the provisions of this act, whether this  
65 be all of the lands lying within the limits of an incorporated  
66 municipality, lands in and adjacent to incorporated  
67 municipalities, all unincorporated lands within a county, or  
68 areas comprising combinations of the lands in incorporated  
69 municipalities and unincorporated areas of counties.

70 (6) "Capital improvement" means physical assets  
71 constructed or purchased to provide, improve, or replace a

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72 public facility and which are typically large scale and high in  
73 cost. The cost of a capital improvement is generally  
74 nonrecurring and may require multiyear financing. For the  
75 purposes of this part, physical assets that have been identified  
76 as existing or projected needs in the individual comprehensive  
77 plan elements shall be considered capital improvements.

78 (7)-(3) "Coastal area" means the 35 coastal counties and  
79 all coastal municipalities within their boundaries ~~designated~~  
80 coastal by the state land planning agency.

81 (8) "Compatibility" means a condition in which land uses  
82 or conditions can coexist in relative proximity to each other in  
83 a stable fashion over time such that no use or condition is  
84 unduly negatively impacted directly or indirectly by another use  
85 or condition.

86 (9)-(4) "Comprehensive plan" means a plan that meets the  
87 requirements of ss. 163.3177 and 163.3178.

88 (10) "Deepwater ports" means the ports identified in s.  
89 403.021(9).

90 (11) "Density" means an objective measurement of the  
91 number of people or residential units allowed per unit of land,  
92 such as residents or employees per acre.

93 (12)-(5) "Developer" means any person, including a  
94 governmental agency, undertaking any development as defined in  
95 this act.

96 (13)-(6) "Development" has the same meaning as ~~given it~~ in  
97 s. 380.04.

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98        ~~(14)(7)~~ "Development order" means any order granting,  
99        denying, or granting with conditions an application for a  
100        development permit.

101        ~~(15)(8)~~ "Development permit" includes any building permit,  
102        zoning permit, subdivision approval, rezoning, certification,  
103        special exception, variance, or any other official action of  
104        local government having the effect of permitting the development  
105        of land.

106        ~~(16)(25)~~ "Downtown revitalization" means the physical and  
107        economic renewal of a central business district of a community  
108        as designated by local government, and includes both downtown  
109        development and redevelopment.

110        ~~(17)(32)~~ "Financial feasibility" means that sufficient  
111        revenues are currently available or will be available from  
112        committed funding sources for the first 3 years, or will be  
113        available from committed or planned funding sources for years 4  
114        and 5, of a 5-year capital improvement schedule for financing  
115        capital improvements, such as ad valorem taxes, bonds, state and  
116        federal funds, tax revenues, impact fees, and developer  
117        contributions, which are adequate to fund the projected costs of  
118        the capital improvements identified in the comprehensive plan  
119        necessary to ensure that adopted level-of-service standards are  
120        achieved and maintained within the period covered by the 5-year  
121        schedule of capital improvements. A comprehensive plan shall be  
122        deemed financially feasible for transportation and school  
123        facilities throughout the planning period addressed by the  
124        capital improvements schedule if it can be demonstrated that the  
125        level-of-service standards will be achieved and maintained by

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126 the end of the planning period even if in a particular year such  
127 improvements are not concurrent as required by s. 163.3180.

128 (18) "Floodprone areas" means areas inundated during a  
129 100-year flood event or areas identified by the National Flood  
130 Insurance Program as an A Zone on flood insurance rate maps or  
131 flood hazard boundary maps.

132 (19) "Goal" means the long-term end toward which programs  
133 or activities are ultimately directed.

134 (20)-(9) "Governing body" means the board of county  
135 commissioners of a county, the commission or council of an  
136 incorporated municipality, or any other chief governing body of  
137 a unit of local government, however designated, or the  
138 combination of such bodies where joint utilization of ~~the~~  
139 ~~provisions of~~ this act is accomplished as provided herein.

140 (21)-(10) "Governmental agency" means:

141 (a) The United States or any department, commission,  
142 agency, or other instrumentality thereof.

143 (b) This state or any department, commission, agency, or  
144 other instrumentality thereof.

145 (c) Any local government, as defined in this section, or  
146 any department, commission, agency, or other instrumentality  
147 thereof.

148 (d) Any school board or other special district, authority,  
149 or governmental entity.

150 (22) "Intensity" means an objective measurement of the  
151 extent to which land may be developed or used, including the  
152 consumption or use of the space above, on, or below ground; the  
153 measurement of the use of or demand on natural resources; and

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154 the measurement of the use of or demand on facilities and  
155 services.

156 (23) "Internal trip capture" means trips generated by a  
157 mixed-use project that travel from one on-site land use to  
158 another on-site land use without using the external road  
159 network.

160 (24)~~(11)~~ "Land" means the earth, water, and air, above,  
161 below, or on the surface, and includes any improvements or  
162 structures customarily regarded as land.

163 (25)~~(22)~~ "Land development regulation commission" means a  
164 commission designated by a local government to develop and  
165 recommend, to the local governing body, land development  
166 regulations which implement the adopted comprehensive plan and  
167 to review land development regulations, or amendments thereto,  
168 for consistency with the adopted plan and report to the  
169 governing body regarding its findings. The responsibilities of  
170 the land development regulation commission may be performed by  
171 the local planning agency.

172 (26)~~(23)~~ "Land development regulations" means ordinances  
173 enacted by governing bodies for the regulation of any aspect of  
174 development and includes any local government zoning, rezoning,  
175 subdivision, building construction, or sign regulations or any  
176 other regulations controlling the development of land, except  
177 that this definition does ~~shall~~ not apply in s. 163.3213.

178 (27)~~(12)~~ "Land use" means the development that has  
179 occurred on the land, the development that is proposed by a  
180 developer on the land, or the use that is permitted or  
181 permissible on the land under an adopted comprehensive plan or  
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182 element or portion thereof, land development regulations, or a  
183 land development code, as the context may indicate.

184 (28) "Level of service" means an indicator of the extent  
185 or degree of service provided by, or proposed to be provided by,  
186 a facility based on and related to the operational  
187 characteristics of the facility. Level of service shall indicate  
188 the capacity per unit of demand for each public facility.

189 (29)-(13) "Local government" means any county or  
190 municipality.

191 (30)-(14) "Local planning agency" means the agency  
192 designated to prepare the comprehensive plan or plan amendments  
193 required by this act.

194 (31)-(15) A "Newspaper of general circulation" means a  
195 newspaper published at least on a weekly basis and printed in  
196 the language most commonly spoken in the area within which it  
197 circulates, but does not include a newspaper intended primarily  
198 for members of a particular professional or occupational group,  
199 a newspaper whose primary function is to carry legal notices, or  
200 a newspaper that is given away primarily to distribute  
201 advertising.

202 (32) "New town" means an urban activity center and  
203 community designated on the future land use map of sufficient  
204 size, population and land use composition to support a variety  
205 of economic and social activities consistent with an urban area  
206 designation. New towns shall include basic economic activities;  
207 all major land use categories, with the possible exception of  
208 agricultural and industrial; and a centrally provided full range

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209 of public facilities and services that demonstrate internal trip  
210 capture. A new town shall be based on a master development plan.

211 (33) "Objective" means a specific, measurable,  
212 intermediate end that is achievable and marks progress toward a  
213 goal.

214 (34)-(16) "Parcel of land" means any quantity of land  
215 capable of being described with such definiteness that its  
216 locations and boundaries may be established, which is designated  
217 by its owner or developer as land to be used, or developed as, a  
218 unit or which has been used or developed as a unit.

219 (35)-(17) "Person" means an individual, corporation,  
220 governmental agency, business trust, estate, trust, partnership,  
221 association, two or more persons having a joint or common  
222 interest, or any other legal entity.

223 (36) "Policy" means the way in which programs and  
224 activities are conducted to achieve an identified goal.

225 (37)-(28) "Projects that promote public transportation"  
226 means projects that directly affect the provisions of public  
227 transit, including transit terminals, transit lines and routes,  
228 separate lanes for the exclusive use of public transit services,  
229 transit stops (shelters and stations), office buildings or  
230 projects that include fixed-rail or transit terminals as part of  
231 the building, and projects which are transit oriented and  
232 designed to complement reasonably proximate planned or existing  
233 public facilities.

234 (38)-(24) "Public facilities" means major capital  
235 improvements, including, ~~but not limited to,~~ transportation,  
236 sanitary sewer, solid waste, drainage, potable water,

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237 educational, parks and recreational, ~~and health systems and~~  
238 facilities, ~~and spoil disposal sites for maintenance dredging~~  
239 located in the intracoastal waterways, ~~except for spoil disposal~~  
240 sites owned or used by ports listed in s. 403.021(9)(b).

241 ~~(39)-(18)~~ "Public notice" means notice as required by s.  
242 125.66(2) for a county or by s. 166.041(3)(a) for a  
243 municipality. The public notice procedures required in this part  
244 are established as minimum public notice procedures.

245 ~~(40)-(19)~~ "Regional planning agency" means the council  
246 created pursuant to chapter 186 ~~agency designated by the state~~  
247 ~~land planning agency to exercise responsibilities under law in a~~  
248 ~~particular region of the state.~~

249 ~~(41)~~ "Seasonal population" means part-time inhabitants who  
250 use, or may be expected to use, public facilities or services,  
251 but are not residents and includes tourists, migrant  
252 farmworkers, and other short-term and long-term visitors.

253 ~~(42)-(31)~~ "Optional Sector plan" means the an optional  
254 process authorized by s. 163.3245 in which one or more local  
255 governments engage in long-term planning for a large area and by  
256 agreement with the state land planning agency are allowed to  
257 address regional development-of-regional-impact issues through  
258 adoption of detailed specific area plans within the planning  
259 area within certain designated geographic areas identified in  
260 the local comprehensive plan as a means of fostering innovative  
261 planning and development strategies in s. 163.3177(11)(a) and  
262 ~~(b)~~, furthering the purposes of this part and part I of chapter  
263 380, reducing overlapping data and analysis requirements,  
264 protecting regionally significant resources and facilities, and  
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265 addressing extrajurisdictional impacts. The term includes an  
266 optional sector plan that was adopted before the effective date  
267 of this act.

268 (43)-(20) "State land planning agency" means the Department  
269 of Community Affairs.

270 (44)-(21) "Structure" has the same meaning as in ~~given it~~  
271 ~~by~~ s. 380.031(19).

272 (45) "Suitability" means the degree to which the existing  
273 characteristics and limitations of land and water are compatible  
274 with a proposed use or development.

275 (46) "Transit-oriented development" means a project or  
276 projects, in areas identified in a local government  
277 comprehensive plan, that is or will be served by existing or  
278 planned transit service. These designated areas shall be  
279 compact, moderate to high density developments, of mixed-use  
280 character, interconnected with other land uses, bicycle and  
281 pedestrian friendly, and designed to support frequent transit  
282 service operating through, collectively or separately, rail,  
283 fixed guideway, streetcar, or bus systems on dedicated  
284 facilities or available roadway connections.

285 (47)-(30) "Transportation corridor management" means the  
286 coordination of the planning of designated future transportation  
287 corridors with land use planning within and adjacent to the  
288 corridor to promote orderly growth, to meet the concurrency  
289 requirements of this chapter, and to maintain the integrity of  
290 the corridor for transportation purposes.

291 (48)-(27) "Urban infill" means the development of vacant  
292 parcels in otherwise built-up areas where public facilities such  
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293 as sewer systems, roads, schools, and recreation areas are  
294 already in place and the average residential density is at least  
295 five dwelling units per acre, the average nonresidential  
296 intensity is at least a floor area ratio of 1.0 and vacant,  
297 developable land does not constitute more than 10 percent of the  
298 area.

299 ~~(49)-(26)~~ "Urban redevelopment" means demolition and  
300 reconstruction or substantial renovation of existing buildings  
301 or infrastructure within urban infill areas, existing urban  
302 service areas, or community redevelopment areas created pursuant  
303 to part III.

304 ~~(50)-(29)~~ "Urban service area" means ~~built-up~~ areas  
305 identified in the comprehensive plan where public facilities and  
306 services, including, but not limited to, central water and sewer  
307 capacity and roads, are already in place or are identified in  
308 the capital improvements element ~~committed in the first 3 years~~  
309 ~~of the capital improvement schedule. In addition, for counties~~  
310 ~~that qualify as dense urban land areas under subsection (34),~~  
311 ~~the nonrural area of a county which has adopted into the county~~  
312 ~~charter a rural area designation or areas identified in the~~  
313 ~~comprehensive plan as urban service areas or urban growth~~  
314 ~~boundaries on or before July 1, 2009, are also urban service~~  
315 ~~areas under this definition.~~

316 (51) "Urban sprawl" means a development pattern  
317 characterized by low density, automobile-dependent development  
318 with either a single use or multiple uses that are not  
319 functionally related, requiring the extension of public

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320 facilities and services in an inefficient manner, and failing to  
321 provide a clear separation between urban and rural uses.