By Senator Dean

5-00179A-15 20151244__

1 A bill to be entitled
2 An act relating to constrained agricultural parcels;
3 amending s. 163.3164, F.S.; defining the term
4 "constrained agricultural parcel"; amending s.
5 163.3162, F.S.; authorizing specified landowners to
6 apply for an amendment to a local government
7 comprehensive plan; requiring the local government and
8 the owner of land to agree in writing to a schedule
9 and to negotiate a consensus on the consistency of
10 uses, densities, and intensities within a specified
11 period of time; establishing a presumption that the
12 amendment is not an urban sprawl under certain
13 conditions; requiring that the amendment be
14 transmitted by the local government to the state land
15 planning agency for review; transferring the amendment
16 to the state land planning agency under certain
17 circumstances; limiting the authority of the local
18 government to establish specified prohibitions on the
19 constrained agricultural parcel under certain
20 circumstances; exempting specified property; providing
21 an effective date.
22
23 Be It Enacted by the Legislature of the State of Florida:
24
25 Section 1. Subsections (11) through (51) of section
26 163.3164, Florida Statutes, are redesignated as subsections (12)
27 through (52), respectively, and a new subsection (11) is added
28 to that section, to read:
29 163.3164 Community Planning Act; definitions.—As used in

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30 this act:
31 (11) “Constrained agricultural parcel” means an
32 unincorporated, undeveloped parcel of land:
33 (a) That is owned by a single person or entity or by
34 affiliated or related entities;
35 (b) At least 75 percent of which has been in continuous use
36 for a bona fide agricultural purpose as defined in s. 193.461
37 for a period of 3 years before the date of any comprehensive
38 plan amendment application;
39 (c) That has at least 1 mile of its boundary adjacent to
40 existing industrial, commercial, or residential development;
41 (d) That has at least 1 mile of its boundary adjacent to
42 lands that have been designated in the local government’s
43 comprehensive plan, zoning map, or future land use map as land
44 that cannot be developed for industrial, commercial, or
45 residential development; and
46 (e) That does not exceed 6,400 acres.
47
48 Multiple parcels of land shall be considered a constrained
49 agricultural parcel if such parcels are owned by a single person
50 or entity or by affiliated or related entities; the largest
51 parcel independently meets the criteria of paragraphs (b)-(d);
52 any additional parcels are located contiguous to or within 3,500
53 linear feet of the largest parcel; and the aggregated parcels do
54 not exceed 6,400 acres.
55 Section 2. Subsection (5) is added to section 163.3162,
56 Florida Statutes, to read:
57 163.3162 Agricultural Lands and Practices.—
58 (5) FUTURE PLANNING OF ACTIVE AGRICULTURAL LANDS ADJACENT

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59 TO DEVELOPMENT.—The owner of a constrained agricultural parcel
60 may apply for an amendment to the local government comprehensive
61 plan pursuant to s. 163.3184.
62 (a) The local government and the owner of the constrained
63 agricultural parcel that is the subject of an application for an
64 amendment have 30 days after the local government's receipt of a
65 complete application to agree in writing to a schedule for
66 information submittal, public hearings, negotiations, and final
67 action on the amendment. Such schedule may be altered only with
68 the written consent of the local government and the owner.
69 Compliance with the schedule in the written agreement
70 constitutes good faith negotiations.
71 (b) The local government and the owner of the constrained
72 agricultural parcel have 180 days after the date the local
73 government receives a complete application to negotiate in good
74 faith to reach consensus as to whether the uses, densities, and
75 intensities included in the amendment are consistent with the
76 most prevalent surrounding uses, densities, and intensities
77 within a 3-mile radius of the constrained agricultural parcel,
78 excluding the adjacent lands described in s. 163.3164(11)(d),
79 whether such surrounding uses, densities, and intensities are
80 developed, or approved but not yet developed.
81 (c) If an amendment includes uses, densities, and
82 intensities that are consistent with the most prevalent
83 surrounding uses, densities, and intensities within a 3-mile
84 radius of the constrained agricultural parcel, excluding the
85 adjacent lands described in s. 163.3164(11)(d), whether such
86 surrounding uses, densities, and intensities are developed, or
87 approved but not yet developed, the amendment is presumed not to

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88 be urban sprawl as defined in s. 163.3164. This presumption may
89 be rebutted by clear and convincing evidence.
90 (d) Regardless of whether the local government and the
91 owner reach a consensus, the local government shall transmit the
92 amendment to the state land planning agency for review pursuant
93 to s. 163.3184 upon the conclusion of the good faith
94 negotiations. If the local government fails to transmit the
95 amendment within 180 days after receipt of a complete
96 application, the amendment shall immediately transfer to the
97 state land planning agency for such review. An amendment
98 transmitted to the state land planning agency is presumed not to
99 be urban sprawl as defined in s. 163.3164. This presumption may
100 be rebutted by clear and convincing evidence.
101 (e) Notwithstanding a comprehensive plan, a local
102 government may not impose a development condition that prohibits
103 uses, densities, and intensities that are consistent with the
104 most prevalent surrounding uses, densities, and intensities of
105 lands within a 3-mile radius of the constrained agricultural
106 parcel, excluding the adjacent lands described in s.
107 163.3164(11)(d), whether such surrounding uses, densities, and
108 intensities are developed, or are approved but not yet
109 developed. If a local government imposes such development
110 conditions, the owner may apply to the circuit court for
111 appropriate relief pursuant to s. 70.001. The imposition of such
112 conditions is presumed to impose an inordinate burden that may
113 be rebutted by clear and convincing evidence. This subsection
114 does not apply to comprehensive plan provisions, development
115 conditions, or land development regulations enacted to address
116 compatibility of uses with military operations or installations.

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117 (f) A plan amendment submitted under this subsection is not
118 entitled to the rebuttable presumption in the negotiation and
119 amendment process if the owner fails to negotiate in good faith.
120 (g) This subsection does not preempt or replace any
121 protection currently existing for any property located within
122 the boundaries of:
123 1. The Wekiva Study Area as defined in s. 369.316; or
124 2. The Everglades Protection Area as defined in s.
125 373.4592(2).
126 Section 3. This act shall take effect upon becoming law.

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