

1 A bill to be entitled
 2 An act relating to the Apalachicola Environmental
 3 Stewardship Act; providing a short title; amending s.
 4 259.105, F.S.; appropriating a sum annually for a
 5 specified timeframe from the Florida Forever Fund to
 6 the Apalachicola Area of Critical State Concern for
 7 specified purposes; amending s. 380.0555, F.S.;
 8 renaming the Apalachicola Bay Area of Critical State
 9 Concern as the Apalachicola Area of Critical State
 10 Concern; deleting obsolete language; making technical
 11 changes; providing additional principles for guiding
 12 development within the Apalachicola Area of Critical
 13 State Concern to include projects that protect and
 14 improve water quality; providing an effective date.

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 16 Be It Enacted by the Legislature of the State of Florida:

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 18 Section 1. This act may be referred to as "The
 19 Apalachicola Environmental Stewardship Act."

20 Section 2. Paragraph (b) of subsection (3) of section
 21 259.105, Florida Statutes, is amended to read:

22 259.105 The Florida Forever Act.—

23 (3) Less the costs of issuing and the costs of funding
 24 reserve accounts and other costs associated with bonds, the
 25 proceeds of cash payments or bonds issued pursuant to this

26 | section shall be deposited into the Florida Forever Trust Fund
27 | created by s. 259.1051. The proceeds shall be distributed by the
28 | Department of Environmental Protection in the following manner:

29 | (b) Thirty-five percent to the Department of Environmental
30 | Protection for the acquisition of lands and capital project
31 | expenditures described in this section. Of the proceeds
32 | distributed pursuant to this paragraph, it is the intent of the
33 | Legislature that an increased priority be given to those
34 | acquisitions which achieve a combination of conservation goals,
35 | including protecting Florida's water resources and natural
36 | groundwater recharge.

37 | 1. At a minimum, 3 percent, and no more than 10 percent,
38 | of the funds allocated pursuant to this paragraph shall be spent
39 | on capital project expenditures identified during the time of
40 | acquisition which meet land management planning activities
41 | necessary for public access, including affordable housing
42 | projects.

43 | 2. Beginning in the 2017-2018 fiscal year and continuing
44 | through the 2026-2027 fiscal year, at least \$5 million of the
45 | funds allocated pursuant to this paragraph shall be spent on
46 | land acquisition within the Florida Keys Area of Critical State
47 | Concern as authorized pursuant to s. 259.045.

48 | 3. Beginning in the 2020-2021 fiscal year and continuing
49 | through the 2024-2025 fiscal year, funds allocated pursuant to
50 | this paragraph shall be spent on projects that improve surface

51 water and groundwater quality in the Apalachicola River and in
52 Apalachicola Bay within the Apalachicola Area of Critical State
53 Concern as authorized pursuant to s. 380.0555, including the
54 construction and replacement of stormwater management facilities
55 and central sewage collection facilities, installation of onsite
56 sewage treatment and disposal systems, direct and indirect
57 potable reuse, and other water quality and water supply
58 projects.

59 a. If the allocated funds are used for land acquisition,
60 for every acre bought by the department within the Apalachicola
61 Area of Critical State Concern as authorized pursuant to s.
62 380.0555, the department must sell or relinquish an acre
63 elsewhere within Franklin County.

64 b. At least 3 percent but not more than 10 percent of the
65 funds allocated for land acquisition shall be spent on projects
66 and activities identified during the time of acquisition,
67 including land management, increased public access and
68 recreational opportunities, and greenways.

69 Section 3. Section 380.0555, Florida Statutes, is amended
70 to read:

71 380.0555 Apalachicola ~~Bay~~ Area; protection and designation
72 as area of critical state concern.—

73 (1) SHORT TITLE.—This act shall be known and cited as the
74 "Apalachicola ~~Bay~~ Area Protection Act."

75 (2) LEGISLATIVE INTENT.—It is hereby declared that the

76 | intent of the Legislature is:

77 | (a) To protect the water quality of the Apalachicola ~~Bay~~
78 | Area to ensure a healthy environment and a thriving economy for
79 | the residents of the area and the state.

80 | (b) To financially assist Franklin County and its
81 | municipalities in upgrading and expanding their sewerage
82 | systems.

83 | (c) To protect the Apalachicola ~~Bay~~ Area's natural and
84 | economic resources by implementing and enforcing comprehensive
85 | plans and land development regulations.

86 | (d) To assist Franklin County and its municipalities with
87 | technical and advisory assistance in formulating additional land
88 | development regulations and modifications to comprehensive
89 | plans.

90 | (e) To monitor activities within the Apalachicola ~~Bay~~ Area
91 | to ensure the long-term protection of all the area's resources.

92 | (f) To promote a broad base of economic growth which is
93 | compatible with the protection and conservation of the natural
94 | resources of the Apalachicola ~~Bay~~ Area.

95 | (g) To educate the residents of the Apalachicola ~~Bay~~ Area
96 | in order to protect and preserve its natural resources.

97 | (h) To provide affordable housing in close proximity to
98 | places of employment in the Apalachicola ~~Bay~~ Area.

99 | (i) To protect and improve the water quality of the
100 | Apalachicola ~~Bay~~ Area through federal, state, and local funding

101 of water quality improvement projects, including the
102 construction and operation of wastewater management facilities
103 that meet state requirements.

104 (3) DESIGNATION.—Franklin County, as described in s. 7.19,
105 less all federally owned lands, less all lands lying east of the
106 line formed by the eastern boundary of State Road 319 running
107 from the Ochlockonee River to the intersection of State Road 319
108 and State Road 98 and thence due south to the Gulf of Mexico,
109 and less any lands removed under subsection (4), is hereby
110 designated an area of critical state concern on June 18, 1985.
111 State road, for the purpose of this section, shall be defined as
112 in s. 334.03. For the purposes of this act, this area shall be
113 known as the Apalachicola ~~Bay~~ Area.

114 (4) REMOVAL OF DESIGNATION.—The state land planning agency
115 may recommend to the Administration Commission the removal of
116 the designation from all or part of the area specified in
117 subsection (3), if it determines that all local land development
118 regulations and local comprehensive plans and the administration
119 of such regulations and plans are adequate to protect the
120 Apalachicola ~~Bay~~ Area, continue to carry out the legislative
121 intent set forth in subsection (2), and are in compliance with
122 the principles for guiding development set forth in subsection
123 (7). If the Administration Commission concurs with the
124 recommendations of the state land planning agency to remove any
125 area from the designation, it shall, within 45 days after

126 receipt of the recommendation, initiate rulemaking to remove the
 127 designation. The state land planning agency shall make
 128 recommendations to the Administration Commission annually.

129 (5) APPLICATION OF CHAPTER 380 PROVISIONS.—Section
 130 380.05(1)-(5), (8), (9), (12), (15), (17), and (21), does ~~shall~~
 131 not apply to the area designated by this act for so long as the
 132 designation remains in effect. Except as otherwise provided in
 133 this act, s. 380.045 does ~~shall~~ not apply to the area designated
 134 by this act. All other provisions of this chapter shall apply,
 135 including ss. 380.07 and 380.11, except that the "local
 136 development regulations" in s. 380.05(13) shall include the
 137 regulations set forth in subsection (8) for purposes of s.
 138 380.05(13), ~~and the plan or plans submitted pursuant to s.~~
 139 ~~380.05(14) shall be submitted no later than February 1, 1986.~~
 140 All or part of the area designated by this act may be
 141 redesignated pursuant to s. 380.05 as if it had been initially
 142 designated pursuant to that section.

143 (6) VESTED RIGHTS OF DEVELOPER.—If a developer has by his
 144 or her actions in reliance on prior regulations obtained vested
 145 or other legal rights including rights obtained by approval of a
 146 development of regional impact or a substantial deviation
 147 thereof pursuant to s. 380.06 that would have prevented a local
 148 government from changing those regulations in a way adverse to
 149 the developer's interests, ~~nothing in~~ this act does not
 150 authorize ~~authorizes~~ any governmental agency to abridge those

151 rights.

152 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,
 153 and local agencies and units of government in the Apalachicola
 154 ~~Bay~~ Area of Critical State Concern shall coordinate their plans
 155 and conduct their programs and regulatory activities consistent
 156 ~~consistently~~ with the following principles for guiding the
 157 development of the Apalachicola Area of Critical State Concern:

158 (a) Land development shall be guided so that the basic
 159 functions and productivity of the Apalachicola ~~Bay~~ Area's
 160 natural land and water systems will be conserved to reduce or
 161 avoid health, safety, and economic problems for present and
 162 future residents of the Apalachicola ~~Bay~~ Area.

163 (b) Land development shall be consistent with a safe
 164 environment, adequate community facilities, a superior quality
 165 of life, and a desire to minimize environmental hazards.

166 (c) Growth and diversification of the local economy shall
 167 be fostered only if it is consistent with protecting the natural
 168 resources of the Apalachicola ~~Bay~~ Area through appropriate
 169 management of the land and water systems.

170 (d) Aquatic habitats and wildlife resources of the
 171 Apalachicola ~~Bay~~ Area shall be conserved and protected.

172 (e) Water quantity shall be managed to conserve and
 173 protect the natural resources and the scenic beauty of the
 174 Apalachicola ~~Bay~~ Area.

175 (f) The quality of water shall be protected, maintained,

176 and improved for public water supplies, the propagation of
 177 aquatic life, and recreational and other uses which are
 178 consistent with these uses.

179 (g) No wastes shall be discharged into any waters of the
 180 Apalachicola ~~Bay~~ Area without first being given the degree of
 181 treatment necessary to protect the water uses as set forth in
 182 paragraph (f).

183 (h) Stormwater discharges shall be managed in order to
 184 minimize their impacts on the bay system and protect the uses as
 185 set forth in paragraph (f).

186 (i) Coastal dune systems, specifically the area extending
 187 landward from the extreme high-tide line to the beginning of the
 188 pinelands of the Apalachicola ~~Bay~~ Area, shall be protected.

189 (j) Public lands shall be managed, enhanced, and protected
 190 so that the public may continue to enjoy the traditional use of
 191 such lands.

192 (k) Water quality shall be protected and improved by the
 193 construction, operation, maintenance, and replacement of
 194 stormwater management facilities; central sewage collection
 195 facilities; treatment and disposal facilities; the installation
 196 and proper operation and maintenance of onsite sewage treatment
 197 and disposal systems; indirect and direct potable reuse; and
 198 other water quality and water supply projects.

199 (8) COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT
 200 REGULATIONS.—

201 (a) *Local governments to administer plan elements and*
 202 *regulations.*—The following comprehensive plan elements and land
 203 development regulations shall be administered by local
 204 governments within their jurisdiction in the Apalachicola ~~Bay~~
 205 Area, as part of their local comprehensive plan and land
 206 development regulations. If a local government within the
 207 Apalachicola ~~Bay~~ Area has a provision in its local comprehensive
 208 plan or its land development regulations which conflicts with a
 209 provision of this paragraph or has no comparable provision, the
 210 provision of this paragraph shall control.

211 1. Comprehensive plan.—Chapter 1 of Volume I, and chapters
 212 4, 5, 7, and 9 of Volume II of the Franklin County Comprehensive
 213 Land Use Plan adopted by Ordinance No. 81-4 on June 22, 1981, by
 214 the Franklin County Board of County Commissioners and filed with
 215 the Secretary of State on June 30, 1981, are incorporated by
 216 reference and adopted herein.

217 2. Zoning ordinances.—Ordinance No. 81-5 adopted June 22,
 218 1981, by the Franklin County Board of County Commissioners and
 219 filed with the Secretary of State on June 30, 1981, and the
 220 following amendments are incorporated by reference and adopted
 221 herein:

222 a. Ordinance 82-4, adopted June 18, 1982, and filed with
 223 the Secretary of State on July 28, 1982.

224 b. Ordinance 83-4, adopted July 19, 1983, and filed with
 225 the Secretary of State on July 25, 1983.

226 c. Ordinance 83-7, adopted October 4, 1983, and filed with
 227 the Secretary of State on October 6, 1983.

228 d. Ordinance 84-2, adopted April 24, 1984, and filed with
 229 the Secretary of State on April 27, 1984.

230 3. Subdivision regulations.—Ordinance No. 74-1 adopted
 231 November 15, 1974, by the Franklin County Board of County
 232 Commissioners and filed with the Secretary of State on December
 233 4, 1974, and December 5, 1974, and the following amendment are
 234 incorporated by reference and adopted herein: Ordinance 79-5,
 235 filed with the Secretary of State on May 30, 1979.

236 4. Flood plain management ordinance.—Ordinance No. 83-5
 237 adopted on July 7, 1983, by the Franklin County Board of County
 238 Commissioners and filed with the Secretary of State on July 15,
 239 1983, is incorporated by reference and adopted herein.

240 5. Septic tank ordinance.—Ordinance 79-8 adopted on June
 241 22, 1979, by the Franklin County Board of County Commissioners
 242 and filed with the Secretary of State on June 27, 1979, is
 243 incorporated by reference and adopted herein.

244 6. Construction; electrical connection.—Ordinance No. 73-
 245 5A adopted July 3, 1973, by the Franklin County Board of County
 246 Commissioners and filed with the Secretary of State on March 6,
 247 1981, is incorporated by reference and adopted herein.

248 7. Alligator Point Water Resource District Act.—Ordinance
 249 No. 76-7 adopted on November 16, 1976, by the Franklin County
 250 Board of County Commissioners and filed with the Secretary of

251 State on March 6, 1981, is incorporated by reference and adopted
 252 herein.

253 8. Coastal area building codes.—Ordinance No. 84-1
 254 establishing building codes for coastal areas adopted by the
 255 Franklin County Board of County Commissioners on February 8,
 256 1984, and filed with the Secretary of State on February 2, 1984,
 257 is incorporated by reference and adopted herein.

258 9. Standard building code.—Ordinance adopting the 1976
 259 Standard Building Code, Ordinance No. 83-1, adopted January 18,
 260 1983, by the Franklin County Board of County Commissioners and
 261 filed with the Secretary of State January 20, 1983, is
 262 incorporated by reference and adopted herein.

263 10. Local planning agency.—Ordinance No. 77-6 adopted on
 264 June 21, 1977, by the Franklin County Board of County
 265 Commissioners and filed with the Secretary of State on June 22,
 266 1977, is incorporated by reference and adopted herein.

267 11. Coastal high-hazard zones.—Ordinance No. 80-5 adopted
 268 on May 29, 1980, by the Franklin County Board of County
 269 Commissioners and filed with the Secretary of State on May 30,
 270 1980, is incorporated by reference and adopted herein.

271 (b) *Conflicting regulations.*—In the event of any
 272 inconsistency between subparagraph (a)1. and subparagraphs
 273 (a)2.-11., subparagraph (a)1. shall control. Further, in the
 274 event of any inconsistency between subsection (7) and paragraph
 275 (a) of this subsection and a development order issued pursuant

276 | to s. 380.06, which has become final prior to June 18, 1985, or
 277 | between subsection (7) and paragraph (a) and an amendment to a
 278 | final development order, which amendment has been requested
 279 | prior to April 2, 1985, the development order or amendment
 280 | thereto shall control. However, any modification to paragraph
 281 | (a) enacted by a local government and approved by the state land
 282 | planning agency pursuant to subsection (9) may provide whether
 283 | it shall control over an inconsistent provision of a development
 284 | order or amendment thereto. A development order or any amendment
 285 | thereto referred to in this paragraph shall not be subject to
 286 | approval by the state land planning agency pursuant to
 287 | subsection (9).

288 | (c) *Effect of existing plans and regulations.*—Legally
 289 | adopted comprehensive plans and land development regulations
 290 | other than those listed in this subsection shall remain in full
 291 | force and effect unless inconsistent with the principles for
 292 | guiding development set forth in subsection (7), the elements of
 293 | the comprehensive plan listed in this subsection, or the land
 294 | development regulations listed in this subsection.

295 | (d) *Developments of regional impact.*—A local government
 296 | shall approve a development subject to the provisions of s.
 297 | 380.06 only if it also complies with the provisions of this
 298 | subsection.

299 | (9) MODIFICATION TO PLANS AND REGULATIONS.—Any land
 300 | development regulation or element of a local comprehensive plan

301 in the Apalachicola ~~Bay~~ Area may be enacted, amended, or
 302 rescinded by a local government, but the enactment, amendment,
 303 or rescission becomes effective only upon the approval thereof
 304 by the state land planning agency. The state land planning
 305 agency shall review the proposed change to determine if it
 306 complies with the principles for guiding development specified
 307 in subsection (7) and must approve or reject the requested
 308 change as provided in s. 380.05. Further, the state land
 309 planning agency, after consulting with the appropriate local
 310 government, may, from time to time, recommend the enactment,
 311 amendment, or rescission of a land development regulation or
 312 element of a comprehensive plan. Within 45 days following the
 313 receipt of such recommendation by the state land planning agency
 314 or enactment, amendment, or rescission by a local government the
 315 commission shall reject the recommendation, enactment,
 316 amendment, or rescission or accept it with or without
 317 modification and adopt, by rule, any changes. Any such local
 318 land development regulation or comprehensive plan or part of
 319 such regulation or plan may be adopted by the commission if it
 320 finds that it is in compliance with the principles for guiding
 321 development.

322 (10) REQUIREMENTS; LOCAL GOVERNMENTS.—

323 (a) As used in this subsection:

324 1. "Alternative onsite system" means any approved onsite
 325 disposal system used in lieu of a standard subsurface system.

326 2. "Critical shoreline zone" means all land within a
 327 distance of 150 feet landward of the mean high-water line in
 328 tidal areas, the ordinary high-water line in nontidal areas, or
 329 the inland wetland areas existing along the streams, lakes,
 330 rivers, bays, and sounds within the Apalachicola ~~Bay~~ Area.

331 3. "Pollution-sensitive segment of the critical shoreline"
 332 means an area which, due to its proximity to highly sensitive
 333 resources, including, but not limited to, productive shellfish
 334 beds and nursery areas, requires special regulatory attention.

335 4. "Low-income family" means a group of persons residing
 336 together whose combined income does not exceed 200 percent of
 337 the 1985 Poverty Income Guidelines for all states and the
 338 District of Columbia, promulgated by the United States
 339 Department of Health and Human Services, as published in Volume
 340 50, No. 46 of the Federal Register, pages 9517-18. Income shall
 341 be as defined in said guidelines.

342 (b) Franklin County and the municipalities within it
 343 shall, within 60 days after a sewerage system is available for
 344 use, notify all owners and users of onsite sewage disposal
 345 systems of the availability of such a system and that connection
 346 is required within 180 days of the notice. Failure to connect to
 347 an available system within the time prescribed shall be a
 348 misdemeanor of the second degree, punishable as provided in ss.
 349 775.082 and 775.083. Further, Franklin County and the
 350 municipalities within it shall have the right to make the

351 connection if it is not made within the prescribed time and to
352 assess the owner of the real property on which the connection is
353 made for the cost of such connection. Such assessments shall be
354 levied according to law and shall become a lien against the real
355 property, enforced according to law. Franklin County and the
356 municipalities within it shall develop a program and implement
357 ordinances to make available to low-income families the sewer
358 services available upon completion of the proposed sewer
359 projects being funded by this act.

360 (c)1. The Department of Health shall survey all septic
361 tank soil-absorption systems in the Apalachicola ~~Bay~~ Area to
362 determine their suitability as onsite sewage treatment systems.
363 Within 6 months from June 18, 1985, Franklin County and the
364 municipalities within it, after consultation with the Department
365 of Health and the Department of Environmental Protection, shall
366 develop a program designed to correct any onsite sewage
367 treatment systems that might endanger the water quality of the
368 bay.

369 2. Franklin County and the municipalities within it shall,
370 within 9 months from June 18, 1985, enact by ordinance
371 procedures implementing this program. These procedures shall
372 include notification to owners of unacceptable septic tanks and
373 procedures for correcting unacceptable septic tanks. These
374 ordinances shall not be effective until approved by the
375 Department of Health and the Department of Environmental

376 Protection.

377 (d) Franklin County and the municipalities within it
 378 shall, within 12 months from June 18, 1985, establish by
 379 ordinance a map of "pollution-sensitive segments of the critical
 380 shoreline" within the Apalachicola ~~Bay~~ Area, which ordinance
 381 shall not be effective until approved by the Department of
 382 Health and the Department of Environmental Protection. Franklin
 383 County and the municipalities within it, after the effective
 384 date of these ordinances, shall no longer grant permits for
 385 onsite wastewater disposal systems in pollution-sensitive
 386 segments of the critical shoreline, except for those onsite
 387 wastewater systems that will not degrade water quality in the
 388 river or bay. These ordinances shall not become effective until
 389 approved by the resource planning and management committee.
 390 Until such ordinances become effective, the Franklin County
 391 Health Department shall not give a favorable recommendation to
 392 the granting of a septic tank variance pursuant to section (1)
 393 of Ordinance 79-8, adopted on June 22, 1979, by the Franklin
 394 County Board of County Commissioners and filed with the
 395 Secretary of State on June 27, 1979, or issue a permit for a
 396 septic tank or alternative waste disposal system pursuant to
 397 Ordinance 81-5, adopted on June 22, 1981, by the Franklin County
 398 Board of County Commissioners and filed with the Secretary of
 399 State on June 30, 1981, as amended as set forth in subparagraph
 400 (8) (a)2., unless the Franklin County Health Department

401 certifies, in writing, that the use of such system will be
402 consistent with paragraph (7)(f) and subsection (8).

403 (e) Franklin County and the municipalities within it
404 shall, within 9 months from June 18, 1985, enact land
405 development regulations to protect the Apalachicola ~~Bay~~ Area
406 from stormwater pollution, including provisions for development
407 approval, before the issuance of building permits pursuant to
408 chapter 17-25, Florida Administrative Code, Franklin County and
409 the municipalities within it shall, within 90 days following the
410 above deadline, survey existing stormwater management systems
411 and discharges to determine their effect on the bay and develop
412 a comprehensive stormwater management plan to minimize such
413 effects. The plan will include recommendations and financing
414 options for the retrofitting of existing systems. Franklin
415 County and the municipalities within it shall, as part of an
416 overall stormwater management program, inform its citizens about
417 stormwater, its relationship to land use, and its effect upon
418 the resources of the Apalachicola ~~Bay~~ Area.

419 (f) Franklin County and the municipalities within it
420 shall, beginning 12 months from June 18, 1985, prepare
421 semiannual reports on the implementation of paragraphs (b)-(e)
422 on the environmental status of the Apalachicola ~~Bay~~ Area. The
423 state land planning agency may prescribe additional detailed
424 information required to be reported. Each report shall be
425 delivered to the resource planning and management committee and

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426 | the state land planning agency for review and recommendations.
427 | The state land planning agency shall review each report and
428 | consider such reports when making recommendations to the
429 | Administration Commission pursuant to subsection (9).

430 | Section 4. This act shall take effect July 1, 2020.