An act relating to growth management; amending s. 163.3167, F.S.; prohibiting counties from adopting, after a specified date, a comprehensive plan, a land development regulation, or another form of restriction unless certain conditions are met; prohibiting counties from limiting a municipality from deciding land uses, density, and intensity allowed on certain lands; providing retroactive applicability; amending s. 171.042, F.S.; prohibiting a municipality from annexing specified areas under certain circumstances; amending s. 163.3168, F.S.; requiring the Department of Economic Opportunity to give a preference to certain counties and municipalities when selecting applications for funding for specified technical assistance; amending s. 163.3177, F.S.; requiring local governments to include a property rights element in their comprehensive plans; providing a statement of rights that a local government may use; requiring a local government to adopt a property rights element by a specified date; prohibiting a local government’s property rights element from conflicting with the statutorily provided statement of rights; amending s. 163.3237, F.S.; providing that certain property owners are not required to consent to development agreement changes under certain circumstances; amending s. 337.25, F.S.; requiring the Department of Transportation to afford a right of first refusal to certain individuals under specified circumstances;
providing requirements and procedures for the right of
first refusal; amending s. 337.401, F.S.; specifying
timeframes for processing a permit application for a
utility’s use of a right-of-way; providing a
declaration of important state interest; amending s.
380.06, F.S.; authorizing certain developments of
regional impact agreements to be amended under certain
circumstances; providing retroactive applicability;
providing an effective date.

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

Section 1. Subsection (3) of section 163.3167, Florida
Statutes, is amended, and subsection (11) is added to that
section, to read:

163.3167 Scope of act.—
(3) A municipality established after the effective date of
this act shall, within 1 year after incorporation, establish a
local planning agency, pursuant to s. 163.3174, and prepare and
adopt a comprehensive plan of the type and in the manner set out
in this act within 3 years after the date of such incorporation.
A county comprehensive plan is controlling until the
municipality adopts a comprehensive plan in accordance with this
act. A comprehensive plan effective adopted after January 1,
2019, and all land development regulations adopted to implement
the comprehensive plan must incorporate each development order
existing before the comprehensive plan’s effective date, may not
impair the completion of a development in accordance with such
existing development order, and must vest the density and

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CODING: Words stricken are deletions; words underlined are additions.
(11) A county may not adopt, after January 1, 2020, any comprehensive plan, land development regulation, or other form of restriction that serves as a limitation on a municipality from establishing land use and zoning on lands located within a municipality unless the municipality, through its own ordinances, adopts and imposes the provision, goal, objective, or policy on lands located within the municipal jurisdiction. A county may not limit a municipality from deciding the land uses, density, and intensity allowed on lands annexed into a municipality as long as the municipality is in compliance with subsection (3). This subsection does not apply to a charter county with a population in excess of 750,000 as of January 1, 2020, which has in place as of that date charter provisions governing land use or development, which provisions apply to all jurisdictions within the county.

Section 2. Subsection (4) is added to section 171.042, Florida Statutes, to read:

171.042 Prerequisites to annexation.—
(4) Except as otherwise provided in s. 171.205, a municipality may not annex an area within another municipal jurisdiction without the other municipality’s consent.

Section 3. Present subsection (4) of section 163.3168, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

163.3168 Planning innovations and technical assistance.—
(4) When selecting applications for funding for technical
assistance, the state land planning agency shall give a preference to a county that has a population of 200,000 or less, and to a municipality located within such a county, for assistance in determining whether the area in and around a proposed multiuse corridor interchange as described in s. 338.2278 contains appropriate land uses and natural resource protections and for aid in developing or amending a local government’s comprehensive plan to provide for such uses, protections, and intended benefits as provided in s. 338.2278.

Section 4. Paragraph (i) is added to subsection (6) of section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(i)1. In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3) that governmental entities respect judicially acknowledged and constitutionally protected private property rights, each local government shall include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decisionmaking. A local government may adopt its own property rights element or use the following statement of rights:

The following rights shall be considered in local decisionmaking:

1. The right of a property owner to physically possess and control his or her interests in the property,
including easements, leases, or mineral rights.

2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or the use of any other person, subject to state law and local ordinances.

3. The right of the property owner to privacy and to exclude others from the property to protect the owner’s possessions and property.

4. The right of a property owner to dispose of his or her property through sale or gift.

2. Each local government must adopt a property rights element in its comprehensive plan by the earlier of its next proposed plan amendment or July 1, 2023. If a local government adopts its own property rights element, the element may not conflict with the statement of rights provided in subparagraph 1.

Section 5. Section 163.3237, Florida Statutes, is amended to read:

163.3237 Amendment or cancellation of a development agreement.—A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest. A party or its designated successor in interest to a development agreement and a local government may amend or cancel a development agreement without securing the consent of other parcel owners whose property was originally
subject to the development agreement, unless the amendment or
cancellation directly modifies the allowable uses or
entitlements of such owners’ property.

Section 6. Subsection (4) of section 337.25, Florida
Statutes, is amended to read:

337.25 Acquisition, lease, and disposal of real and
personal property.—

(4) The department may convey, in the name of the state,
any land, building, or other property, real or personal, which
was acquired under subsection (1) and which the department has
determined is not needed for the construction, operation, and
maintenance of a transportation facility. When such a
determination has been made, property may be disposed of through
negotiations, sealed competitive bids, auctions, or any other
means the department deems to be in its best interest, with due
advertisement for property valued by the department at greater
than $10,000. A sale may not occur at a price less than the
department’s current estimate of value, except as provided in
paragraphs (a)-(d). The department may afford a right of first
refusal to the local government or other political subdivision
in the jurisdiction in which the parcel is situated, except in a
conveyance transacted under paragraph (a), paragraph (c), or
paragraph (e). Notwithstanding any provision of this section to
the contrary, before any conveyance under this subsection may be
made, except a conveyance under paragraph (a) or paragraph (c),
the department shall first afford a right of first refusal to
the previous property owner for the department’s current
estimate of value of the property. The right of first refusal
must be made in writing and sent to the previous owner via
certified mail or hand delivery, effective upon receipt. The
right of first refusal must provide the previous owner with a
minimum of 30 days to exercise the right in writing and must be
sent to the originator of the offer by certified mail or hand
delivery, effective upon dispatch. If the previous owner
exercises his or her right of first refusal, the previous owner
has a minimum of 90 days to close on the property.

(a) If the property has been donated to the state for
transportation purposes and a transportation facility has not
been constructed for at least 5 years, plans have not been
prepared for the construction of such facility, and the property
is not located in a transportation corridor, the governmental
entity may authorize reconveyance of the donated property for no
consideration to the original donor or the donor’s heirs,
successors, assigns, or representatives.

(b) If the property is to be used for a public purpose, the
property may be conveyed without consideration to a governmental
entity.

(c) If the property was originally acquired specifically to
provide replacement housing for persons displaced by
transportation projects, the department may negotiate for the
sale of such property as replacement housing. As compensation,
the state shall receive at least its investment in such property
or the department’s current estimate of value, whichever is
lower. It is expressly intended that this benefit be extended
only to persons actually displaced by the project. Dispositions
to any other person must be for at least the department’s
current estimate of value.

(d) If the department determines that the property requires
significant costs to be incurred or that continued ownership of the property exposes the department to significant liability risks, the department may use the projected maintenance costs over the next 10 years to offset the property’s value in establishing a value for disposal of the property, even if that value is zero.

(e) If, at the discretion of the department, a sale to a person other than an abutting property owner would be inequitable, the property may be sold to the abutting owner for the department’s current estimate of value.

Section 7. Subsection (2) of section 337.401, Florida Statutes, is amended to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(2) The authority may grant to any person who is a resident of this state, or to any corporation which is organized under the laws of this state or licensed to do business within this state, the use of a right-of-way for the utility in accordance with such rules or regulations as the authority may adopt. No utility shall be installed, located, or relocated unless authorized by a written permit issued by the authority. However, for public roads or publicly owned rail corridors under the jurisdiction of the department, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit. The permit shall require the permitholder to be responsible for any damage resulting from the issuance of such permit. The authority may initiate injunctive proceedings as provided in s. 120.69 to enforce provisions of this subsection or any rule or order issued or entered into pursuant thereto. A
permit application required under this subsection by a county or municipality having jurisdiction and control of the right-of-way of any public road must be processed and acted upon in accordance with the timeframes provided in subparagraphs (7)(d)7., 8., and 9.

Section 8. The Legislature finds and declares that this act fulfills an important state interest.

Section 9. Paragraph (d) of subsection (4) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—
(4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—
(d) Any agreement entered into by the state land planning agency, the developer, and the local government with respect to an approved development of regional impact previously classified as essentially built out, or any other official determination that an approved development of regional impact is essentially built out, remains valid unless it expired on or before April 6, 2018, and may be amended pursuant to the processes adopted by the local government for amending development orders. Any such agreement or amendment may authorize the developer to exchange approved land uses, subject to demonstrating that the exchange will not increase impacts to public facilities. This paragraph applies to all such agreements and amendments effective on or after April 6, 2018.

Section 10. This act shall take effect July 1, 2020.