

By the Committees on Judiciary; and Community Affairs; and  
Senator Perry

590-02867-21

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1                                   A bill to be entitled  
2       An act relating to growth management; amending s.  
3       163.3167, F.S.; specifying requirements for certain  
4       comprehensive plans effective, rather than adopted,  
5       after a specified date and for associated land  
6       development regulations; amending s. 163.3177, F.S.;  
7       requiring local governments to include a property  
8       rights element in their comprehensive plans; providing  
9       a statement of rights which a local government may  
10      use; requiring a local government to adopt a property  
11      rights element by the earlier of its adoption of its  
12      next proposed plan amendment initiated after a certain  
13      date or the next scheduled evaluation and appraisal of  
14      its comprehensive plan; prohibiting a local  
15      government's property rights element from conflicting  
16      with the statement of rights contained in the act;  
17      amending s. 163.3237, F.S.; providing that the consent  
18      of certain property owners is not required for  
19      development agreement changes under certain  
20      circumstances; providing an exception; amending s.  
21      380.06, F.S.; authorizing certain developments of  
22      regional impact agreements to be amended under certain  
23      circumstances; providing retroactive applicability;  
24      providing a declaration of important state interest;  
25      providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

28  
29       Section 1. Subsection (3) of section 163.3167, Florida

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30 Statutes, is amended to read:

31 163.3167 Scope of act.—

32 (3) A municipality established after the effective date of  
33 this act shall, within 1 year after incorporation, establish a  
34 local planning agency, pursuant to s. 163.3174, and prepare and  
35 adopt a comprehensive plan of the type and in the manner set out  
36 in this act within 3 years after the date of such incorporation.  
37 A county comprehensive plan is controlling until the  
38 municipality adopts a comprehensive plan in accordance with this  
39 act. A comprehensive plan for a newly incorporated municipality  
40 which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and  
41 all land development regulations adopted to implement the  
42 comprehensive plan must incorporate each development order  
43 existing before the comprehensive plan's effective date, may not  
44 impair the completion of a development in accordance with such  
45 existing development order, and must vest the density and  
46 intensity approved by such development order existing on the  
47 effective date of the comprehensive plan without limitation or  
48 modification.

49 Section 2. Paragraph (i) is added to subsection (6) of  
50 section 163.3177, Florida Statutes, to read:

51 163.3177 Required and optional elements of comprehensive  
52 plan; studies and surveys.—

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

55 (i)1. In accordance with the legislative intent expressed  
56 in ss. 163.3161(10) and 187.101(3) that governmental entities  
57 respect judicially acknowledged and constitutionally protected  
58 private property rights, each local government shall include in

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59 its comprehensive plan a property rights element to ensure that  
60 private property rights are considered in local decisionmaking.  
61 A local government may adopt its own property rights element or  
62 use the following statement of rights:

63  
64 The following rights shall be considered in local  
65 decisionmaking:

66  
67 1. The right of a property owner to physically possess  
68 and control his or her interests in the property,  
69 including easements, leases, or mineral rights.

70  
71 2. The right of a property owner to use, maintain,  
72 develop, and improve his or her property for personal  
73 use or the use of any other person, subject to state  
74 law and local ordinances.

75  
76 3. The right of the property owner to privacy and to  
77 exclude others from the property to protect the  
78 owner's possessions and property.

79  
80 4. The right of a property owner to dispose of his or  
81 her property through sale or gift.

82  
83 2. Each local government must adopt a property rights  
84 element in its comprehensive plan by the earlier of its adoption  
85 of its next proposed plan amendment that is initiated after July  
86 1, 2021, or the next scheduled evaluation and appraisal of its  
87 comprehensive plan pursuant to s. 163.3191. If a local

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88 government adopts its own property rights element, the element  
89 may not conflict with the statement of rights provided in  
90 subparagraph 1.

91 Section 3. Section 163.3237, Florida Statutes, is amended  
92 to read:

93 163.3237 Amendment or cancellation of a development  
94 agreement.—A development agreement may be amended or canceled by  
95 mutual consent of the parties to the agreement or by their  
96 successors in interest. A party or its designated successor in  
97 interest to a development agreement and a local government may  
98 amend or cancel a development agreement without securing the  
99 consent of other parcel owners whose property was originally  
100 subject to the development agreement, unless the amendment or  
101 cancellation directly modifies the allowable uses or  
102 entitlements of such owners' property.

103 Section 4. Paragraph (d) of subsection (4) of section  
104 380.06, Florida Statutes, is amended to read:

105 380.06 Developments of regional impact.—

106 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

107 (d) Any agreement entered into by the state land planning  
108 agency, the developer, and the local government with respect to  
109 an approved development of regional impact previously classified  
110 as essentially built out, or any other official determination  
111 that an approved development of regional impact is essentially  
112 built out, remains valid unless it expired on or before April 6,  
113 2018, and may be amended pursuant to the processes adopted by  
114 the local government for amending development orders. Any such  
115 agreement or amendment may authorize the developer to exchange  
116 approved land uses, subject to demonstrating that the exchange

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117 will not increase impacts to public facilities. This paragraph  
118 applies to all such agreements and amendments effective on or  
119 after April 6, 2018.

120 Section 5. The Legislature finds and declares that this act  
121 fulfills an important state interest.

122 Section 6. This act shall take effect July 1, 2021.