

By Senator Perry

8-00219-18

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1                   A bill to be entitled  
2       An act relating to growth management; amending s.  
3       163.3167, F.S.; requiring local governments to address  
4       the protection of private property rights in their  
5       comprehensive plans; amending s. 163.3177, F.S.;  
6       requiring the comprehensive plan to include a private  
7       property rights element that sets forth principles,  
8       guidelines, standards, and strategies to achieve  
9       certain objectives; requiring counties and  
10      municipalities to adopt within a specified period land  
11      development regulations consistent with the private  
12      property rights element; providing a deadline by which  
13      each local government must adopt a private property  
14      rights element; requiring the state land planning  
15      agency to approve the private property rights element  
16      adopted by each local government if it is  
17      substantially in a specified form; providing an  
18      effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

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22       Section 1. Subsection (9) of section 163.3167, Florida  
23 Statutes, is amended to read:

24       163.3167 Scope of act.—

25       (9) Each local government shall address in its  
26 comprehensive plan, as enumerated in this chapter:7

27       (a) The water supply sources necessary to meet and achieve  
28 the existing and projected water use demand for the established  
29 planning period, considering the applicable plan developed

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30 pursuant to s. 373.709; and-

31 (b) The protection of private property rights.

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

34 163.3177 Required and optional elements of comprehensive  
35 plan; studies and surveys.-

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

38 (i)1. In recognition of the legitimate and often competing  
39 public and private interests in land use regulations and other  
40 governmental action, a property rights element that protects  
41 private property rights. The private property rights element  
42 must set forth the principles, guidelines, standards, and  
43 strategies that will guide the local government's decisions and  
44 program implementation with respect to the following objectives:

45 a. Consideration of the impact on private property rights  
46 of all proposed development orders, plan amendments, ordinances,  
47 and other government decisions.

48 b. Encouragement of economic development.

49 c. Use of alternative, innovative solutions to provide  
50 equal or better protection of private property rights than the  
51 comprehensive plan.

52 d. Consideration of the degree of harm created by  
53 noncompliance with the comprehensive plan.

54 2. Each county and each municipality within the county  
55 shall, within 1 year after adopting its private property rights  
56 element, adopt land development regulations consistent with this  
57 paragraph.

58 3. Each local government shall adopt a private property

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59 rights element at its next evaluation and appraisal update  
60 review as required under this section or by July 2020, whichever  
61 occurs first.

62 4. The state land planning agency shall approve each  
63 private property rights element adopted by a local government if  
64 it is in substantially the following form:

65 GOAL: In all decisions, the ...(name of commission)... will  
66 take into consideration the balancing of the comprehensive plan  
67 provisions with the protection of private property rights; the  
68 encouragement of economic development; the use of alternative,  
69 innovative solutions to provide equal or better protection than  
70 the comprehensive plan; and the degree of harm created by  
71 noncompliance with the comprehensive plan.

72 OBJECTIVE 1: In all decisions rendered under the  
73 comprehensive plan and implementing land development  
74 regulations, the ...(name of local government)... shall balance  
75 the protection of private property rights with the comprehensive  
76 plan provisions applicable to the circumstance.

77 POLICY 1.1: The ...(name of commission)... shall render its  
78 decisions in support of economic development and in deference to  
79 private property rights.

80 POLICY 1.2: In all decisions, the ...(name of  
81 commission)... may approve alternative, innovative solutions  
82 that provide equal or better protection than the comprehensive  
83 plan.

84 POLICY 1.3: If the degree of harm created by noncompliance  
85 with the comprehensive plan is minimal or may be mitigated, the  
86 ...(name of local government)... may approve the applicable  
87 request or application.

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88       OBJECTIVE 2: The ...(name of local government)... shall  
89 bring its land development regulations into internal consistency  
90 with the private property rights element.

91       POLICY 2.1: No later than 1 year after the ...(name of  
92 local government)... adopts the private property rights element,  
93 it shall review and revise its land development regulations as  
94 necessary to make them consistent with that element.

95       Section 3. This act shall take effect July 1, 2018.