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CS/CS/HB 1173, Engrossed 2

2018 Legislature

1
2 An act relating to lands used for governmental
3 purposes; amending s. 253.025, F.S.; providing
4 conditions under which specified appraisal standards
5 are required, and such appraisal be provided to the
6 seller, for the acquisition of lands for the purpose
7 of buffering military installations against
8 encroachment; authorizing such lands to be leased or
9 conveyed for less than appraised value to military
10 installations; providing requirements for such leasing
11 and conveyance; authorizing the use of certain funding
12 sources for the immediate acquisition of lands that
13 prevent or satisfy private property rights claims
14 within areas of critical state concern; authorizing
15 the board of trustees to waive certain procedures for
16 land acquisition for such lands; providing procedures
17 for estimating the value of such lands under certain
18 conditions; amending s. 259.045, F.S.; authorizing the
19 Department of Environmental Protection to acquire
20 certain conservation and recreation lands to prevent
21 or satisfy private property rights claims within areas
22 of critical state concern; providing procedures for
23 estimating the value of such lands under certain
24 conditions; amending s. 259.105, F.S.; including
25 natural disaster and flood mitigation as criteria for

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26 | assessing certain projects and land acquisitions under
27 | the Florida Forever Act; amending s. 288.980, F.S.;
28 | requiring the Department of Economic Opportunity to
29 | annually request state military installations to
30 | provide a certain list before a specified date;
31 | requiring the department to submit such list to the
32 | Florida Defense Support Task Force; requiring the task
33 | force to annually review such list and provide certain
34 | recommendations by a specified date; requiring the
35 | department to annually submit a certain list to the
36 | Board of Trustees of the Internal Improvement Trust
37 | Fund, for certain purposes; providing requirements for
38 | the annual list; revising the definition of the term
39 | "nonconservation lands"; amending s. 380.0555, F.S.;
40 | revising the legislative intent of the Apalachicola
41 | Bay Area Protection Act; amending s. 380.0666, F.S.;
42 | authorizing land authorities to contribute tourist
43 | impact tax revenues to counties to pay for project
44 | costs relating to the construction, redevelopment, and
45 | preservation of certain affordable housing; amending
46 | s. 380.508, F.S.; requiring that urban greenways and
47 | open space projects undertaken, coordinated, or funded
48 | by the Florida Communities Trust meet certain
49 | criteria; amending s. 380.510, F.S.; conforming a
50 | cross-reference; providing an effective date.

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

Section 1. Subsection (23) of section 253.025, Florida Statutes, is renumbered as subsection (25), subsections (21) and (22) of that section are amended, and new subsections (23) and (24) are added to that section, to read:

253.025 Acquisition of state lands.—

(21) (a) The board of trustees may acquire, pursuant to s. 288.980(2) (b), nonconservation lands from the annual list submitted by the Department of Economic Opportunity for the purpose of buffering a military installation against encroachment.

(b) If federal partnership funds are available before the military installation buffer land is acquired, the Division of State Lands shall apply yellow book appraisal standards and must disclose the appraised value to the seller.

(c) Following acquisition of the military installation buffer land, the board of trustees is authorized, in accordance with the installation's procedures, the laws of this state, and the terms of the management and monitoring agreement provided in s. 288.980(2) (b), to:

- 1. Convey the land at less than appraised value to the military installation;
- 2. Lease the land at less than appraised or market value

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76 | to the military installation; or

77 | 3. Lease the land at rates determined by competitive bid,
 78 | which may be less than appraised or market value, to private
 79 | entities to conduct agricultural or silvicultural operations
 80 | under terms requiring approval of the military installation and
 81 | that must implement the best management practices applicable to
 82 | such operations as adopted by the Department of Agriculture and
 83 | Consumer Services.

84 | (d) A conveyance at less than appraised value must state
 85 | that the land will revert to the board of trustees if the land
 86 | is not used for its intended purposes as a military installation
 87 | buffer or if the military installation closes.

88 | (22) The board of trustees, by an affirmative vote of at
 89 | least three members, may direct the Department of Environmental
 90 | Protection to purchase lands on an immediate basis using up to
 91 | 15 percent of the funds allocated to the department pursuant to
 92 | s. 259.105 for the acquisition of lands that:

93 | (a) Are listed or placed at auction by the Federal
 94 | Government as part of the Resolution Trust Corporation sale of
 95 | lands from failed savings and loan associations;

96 | (b) Are listed or placed at auction by the Federal
 97 | Government as part of the Federal Deposit Insurance Corporation
 98 | sale of lands from failed banks; ~~or~~

99 | (c) Will be developed or otherwise lost to potential
 100 | public ownership, or for which federal matching funds will be

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101 lost, by the time the land can be purchased under the program
102 within which the land is listed for acquisition; or

103 (d) Will prevent or satisfy private property rights claims
104 resulting from limitations imposed by the designation of an area
105 of critical state concern pursuant to chapter 380.

106
107 ~~For such acquisitions, the board of trustees may waive or modify~~
108 ~~all procedures required for land acquisition pursuant to this~~
109 ~~chapter and all competitive bid procedures required pursuant to~~
110 ~~chapters 255 and 287.~~ Lands acquired pursuant to this subsection
111 must, at the time of purchase, be on one of the acquisition
112 lists established pursuant to chapter 259, or be essential for
113 water resource development, protection, or restoration, or a
114 significant portion of the lands must contain natural
115 communities or plant or animal species that are listed by the
116 Florida Natural Areas Inventory as critically imperiled,
117 imperiled, or rare, or as excellent quality occurrences of
118 natural communities.

119 (23) The board of trustees, by an affirmative vote of at
120 least three members, may direct the division to purchase lands
121 on an immediate basis that will prevent or satisfy private
122 property rights claims resulting from limitations imposed by the
123 designation of an area of critical state concern pursuant to
124 chapter 380.

125 (24) For acquisitions directed pursuant to subsection (22)

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126 | or subsection (23):

127 | (a) The board of trustees may waive or modify all
 128 | procedures required for land acquisition pursuant to this
 129 | chapter and all competitive bid procedures required pursuant to
 130 | chapters 255 and 287; and

131 | (b) If a parcel is estimated to be worth \$500,000 or less
 132 | and the director of the Division of State Lands finds that the
 133 | cost of an outside appraisal is not justified, a comparable
 134 | sales analysis, an appraisal prepared by the division, or other
 135 | reasonably prudent procedure may be used by the division to
 136 | estimate the value of the land, provided the public interest is
 137 | reasonably protected.

138 | Section 2. Subsection (6) of section 259.045, Florida
 139 | Statutes, is amended to read:

140 | 259.045 Purchase of lands in areas of critical state
 141 | concern; recommendations by department and land authorities.—
 142 | Within 45 days after the Administration Commission designates an
 143 | area as an area of critical state concern under s. 380.05, and
 144 | annually thereafter, the Department of Environmental Protection
 145 | shall consider the recommendations of the state land planning
 146 | agency pursuant to s. 380.05(1)(a) relating to purchase of lands
 147 | within an area of critical state concern or lands outside an
 148 | area of critical state concern that directly impact an area of
 149 | critical state concern, which may include lands used to preserve
 150 | and protect water supply, and shall make recommendations to the

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151 board with respect to the purchase of the fee or any lesser
 152 interest in any such lands that are:

153 (6) Lands used to prevent or satisfy private property
 154 rights claims resulting from limitations imposed by the
 155 designation of an area of critical state concern if the
 156 acquisition of such lands fulfills a public purpose listed in s.
 157 259.032(2) or if the parcel is wholly or partially, at the time
 158 of acquisition, on one of the board's approved acquisition lists
 159 established pursuant to this chapter. For the purposes of this
 160 subsection, if a parcel is estimated to be worth \$500,000 or
 161 less and the director of the Division of State Lands finds that
 162 the cost of an outside appraisal is not justified, a comparable
 163 sales analysis, an appraisal prepared by the Division of State
 164 Lands, or other reasonably prudent procedures may be used by the
 165 Division of State Lands to estimate the value of the parcel,
 166 provided the public's interest is reasonably protected.

167
 168 The department, a local government, a special district, or a
 169 land authority within an area of critical state concern may make
 170 recommendations with respect to additional purchases which were
 171 not included in the state land planning agency recommendations.

172 Section 3. Paragraph (i) is added to subsection (4) of
 173 section 259.105, Florida Statutes, to read:

174 259.105 The Florida Forever Act.—

175 (4) It is the intent of the Legislature that projects or

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176 acquisitions funded pursuant to paragraphs (3) (a) and (b)
177 contribute to the achievement of the following goals, which
178 shall be evaluated in accordance with specific criteria and
179 numeric performance measures developed pursuant to s.

180 259.035(4):

181 (i) Mitigate the effects of natural disasters and floods
182 in developed areas, as measured by:

183 1. The number of acres acquired within a 100-year
184 floodplain or a coastal high hazard area;

185 2. The number of acres acquired or developed to serve dual
186 functions as:

187 a. Flow ways or temporary water storage areas during
188 flooding or high water events, not including permanent
189 reservoirs; and

190 b. Greenways or open spaces available to the public for
191 recreation;

192 3. The number of acres that protect existing open spaces
193 and natural buffer areas within a floodplain that also serve as
194 natural flow ways or natural temporary water storage areas; and

195 4. The percentage of the land acquired within the project
196 boundary that creates additional open spaces, natural buffer
197 areas, and greenways within a floodplain, while precluding
198 rebuilding in areas that repeatedly flood.

199
200 Florida Forever projects and acquisitions funded pursuant to

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201 paragraph (3) (c) shall be measured by goals developed by rule by
202 the Florida Communities Trust Governing Board created in s.
203 380.504.

204 Section 4. Paragraphs (b) and (c) of subsection (2) of
205 section 288.980, Florida Statutes, are amended to read:

206 288.980 Military base retention; legislative intent;
207 grants program.—

208 (2)

209 (b)1. The department shall annually request military
210 installations in the state to provide the department with a list
211 of base buffering encroachment lands for fee simple or less-
212 than-fee simple acquisitions before October 1.

213 2. The department shall submit the list of base buffering
214 encroachment lands to the Florida Defense Support Task Force,
215 created in s. 288.987.

216 3. The Florida Defense Support Task Force shall, annually
217 by December 1, review the list of base buffering encroachment
218 lands submitted by the military installations and provide its
219 recommendations for ranking the lands for acquisition to the
220 department.

221 4. The department shall annually submit the list of base
222 buffering encroachment lands provided by the Florida Defense
223 Support Task Force to the Board of Trustees of the Internal
224 Improvement Trust Fund, which may acquire the lands pursuant to
225 s. 253.025. At a minimum, the annual list must contain for each

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226 recommended land acquisition:
 227 a. A legal description of the land and its property
 228 identification number;
 229 b. A detailed map of the land; and
 230 c. A management and monitoring agreement to ensure the
 231 land serves a base buffering purpose ~~The department may annually~~
 232 ~~submit a list to the Board of Trustees of the Internal~~
 233 ~~Improvement Trust Fund of nonconservation lands to acquire,~~
 234 ~~subject to a specific appropriation, through fee simple purchase~~
 235 ~~or through perpetual, less than fee interest purchase, for the~~
 236 ~~purpose of buffering a military installation against~~
 237 ~~encroachment. The Board of Trustees of the Internal Improvement~~
 238 ~~Trust Fund shall also consider the recommendations of the~~
 239 ~~Florida Defense Support Task Force, created in s. 288.987, when~~
 240 ~~selecting nonconservation lands to purchase for the purpose of~~
 241 ~~securing and protecting a military installation against~~
 242 ~~encroachment. This paragraph does not preclude the acquisition~~
 243 ~~of such lands by local governments through fee simple purchase~~
 244 ~~or through perpetual, less than fee interest purchase, for the~~
 245 ~~purpose of buffering a military installation against~~
 246 ~~encroachment.~~
 247 (c) As used in this subsection, the term "nonconservation
 248 lands" means lands acquired for uses other than conservation,
 249 outdoor resource-based recreation, or archaeological or historic
 250 preservation ~~not subject to acquisition by the Florida Forever~~

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251 ~~Program.~~

252 Section 5. Paragraphs (h) and (i) are added to subsection
253 (2) of section 380.0555, Florida Statutes, to read:

254 380.0555 Apalachicola Bay Area; protection and designation
255 as area of critical state concern.—

256 (2) LEGISLATIVE INTENT.—It is hereby declared that the
257 intent of the Legislature is:

258 (h) To provide affordable housing in close proximity to
259 places of employment in the Apalachicola Bay Area.

260 (i) To protect and improve the water quality of the
261 Apalachicola Bay Area through federal, state, and local funding
262 of water quality improvement projects, including the
263 construction and operation of wastewater management facilities
264 that meet state requirements.

265 Section 6. Subsection (3) of section 380.0666, Florida
266 Statutes, is amended to read:

267 380.0666 Powers of land authority.—The land authority
268 shall have all the powers necessary or convenient to carry out
269 and effectuate the purposes and provisions of this act,
270 including the following powers, which are in addition to all
271 other powers granted by other provisions of this act:

272 (3) (a) To acquire and dispose of real and personal
273 property or any interest therein when such acquisition is
274 necessary or appropriate to protect the natural environment,
275 provide public access or public recreational facilities,

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276 | preserve wildlife habitat areas, provide affordable housing to
 277 | families whose income does not exceed 160 percent of the median
 278 | family income for the area, prevent or satisfy private property
 279 | rights claims resulting from limitations imposed by the
 280 | designation of an area of critical state concern, or provide
 281 | access to management of acquired lands; to acquire interests in
 282 | land by means of land exchanges; to contribute tourist impact
 283 | tax revenues received pursuant to s. 125.0108 to the county in
 284 | which it is located and its most populous municipality or the
 285 | housing authority of such county or municipality, at the request
 286 | of the county commission or the commission or council of such
 287 | municipality, for the construction, redevelopment, or
 288 | preservation of affordable housing in an area of critical state
 289 | concern within such municipality or any other area of the
 290 | county; to contribute funds to the Department of Environmental
 291 | Protection for the purchase of lands by the department; and to
 292 | enter into all alternatives to the acquisition of fee interests
 293 | in land, including, but not limited to, the acquisition of
 294 | easements, development rights, life estates, leases, and
 295 | leaseback arrangements. However, the land authority shall make
 296 | an acquisition or contribution only if:

297 | ~~1.(a)~~ Such acquisition or contribution is consistent with
 298 | land development regulations and local comprehensive plans
 299 | adopted and approved pursuant to this chapter;

300 | ~~2.(b)~~ The property acquired is within an area designated

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301 as an area of critical state concern at the time of acquisition
 302 or is within an area that was designated as an area of critical
 303 state concern for at least 20 consecutive years before ~~prior to~~
 304 removal of the designation;

305 3.(e) The property to be acquired has not been selected
 306 for purchase through another local, regional, state, or federal
 307 public land acquisition program. Such restriction does ~~shall~~ not
 308 apply if the land authority cooperates with the other public
 309 land acquisition programs which listed the lands for
 310 acquisition, to coordinate the acquisition and disposition of
 311 such lands. In such cases, the land authority may enter into
 312 contractual or other agreements to acquire lands jointly or for
 313 eventual resale to other public land acquisition programs; and

314 4.(d) The acquisition or contribution is not used to
 315 improve public transportation facilities or otherwise increase
 316 road capacity to reduce hurricane evacuation clearance times.

317 (b) To use revenues received pursuant to s. 125.0108 to
 318 pay costs related to affordable housing projects, including:

319 1. The cost of acquiring real property and any buildings
 320 thereon, including payments for contracts to purchase
 321 properties;

322 2. The cost of site preparation, demolition, environmental
 323 remediation that is not reimbursed by another governmental
 324 funding program, and development;

325 3. Professional fees in connection with the planning,

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326 design, and construction of the project, such as those of
 327 architects, engineers, attorneys, and accountants;

328 4. The cost of studies, surveys, and plans;

329 5. The cost of the construction, rehabilitation, and
 330 equipping of the project, excluding permit and impact fees and
 331 mitigation requirements;

332 6. The cost of on-site land improvements, such as
 333 landscaping, parking, and ingress and egress, excluding permit
 334 and impact fees and mitigation requirements; and

335 7. The cost of offsite access roads, except those required
 336 to meet hurricane evacuation clearance times.

337 Section 7. Paragraph (f) of subsection (4) of section
 338 380.508, Florida Statutes, is redesignated as paragraph (g), and
 339 a new paragraph (f) is added to that subsection, to read:

340 380.508 Projects; development, review, and approval.—

341 (4) Projects or activities which the trust undertakes,
 342 coordinates, or funds in any manner shall comply with the
 343 following guidelines:

344 (f) The purpose of urban greenways and open space projects
 345 shall be to provide recreational opportunities, promote
 346 community interaction, and connect communities. Urban greenways
 347 and open space projects may also serve dual functions as flow
 348 ways or temporary water storage areas, not including permanent
 349 reservoirs, to mitigate natural disasters and floods in
 350 developed areas.

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352 Project costs may include costs of providing parks, open space,
353 public access sites, scenic easements, and other areas and
354 facilities serving the public where such features are part of a
355 project plan approved according to this part. In undertaking or
356 coordinating projects or activities authorized by this part, the
357 trust shall, when appropriate, use and promote the use of
358 creative land acquisition methods, including the acquisition of
359 less than fee interest through, among other methods,
360 conservation easements, transfer of development rights, leases,
361 and leaseback arrangements. The trust shall assist local
362 governments in the use of sound alternative methods of financing
363 for funding projects and activities authorized under this part.
364 Any funds over and above eligible project costs, which remain
365 after completion of a project approved according to this part,
366 shall be transmitted to the state and deposited into the Florida
367 Forever Trust Fund.

368 Section 8. Paragraph (d) of subsection (3) of section
369 380.510, Florida Statutes, is amended to read:

370 380.510 Conditions of grants and loans.—

371 (3) In the case of a grant or loan for land acquisition,
372 agreements shall provide all of the following:

373 (d) If any essential term or condition of a grant or loan
374 is violated, title to all interest in real property acquired
375 with state funds shall be conveyed or revert to the Board of

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376 Trustees of the Internal Improvement Trust Fund. The trust shall
377 treat such property in accordance with s. 380.508(4)(g) ~~s.~~
378 ~~380.508(4)(f)~~.

379

380 Any deed or other instrument of conveyance whereby a nonprofit
381 organization or local government acquires real property under
382 this section shall set forth the interest of the state. The
383 trust shall keep at least one copy of any such instrument and
384 shall provide at least one copy to the Board of Trustees of the
385 Internal Improvement Trust Fund.

386 Section 9. This act shall take effect upon becoming a law.