History.—s. 3, ch. 74-326; s. 129, ch. 79-190; s. 34, ch. 81-167; s. 34, ch. 83-55; s. 5, ch. 83-308; s. 48, ch. 85-55; s. 57, ch. 93-206; s. 14, ch. 96-416; s. 19, ch. 2018-158.

380.115 Vested rights and duties; changes in statewide guidelines and standards.—A development that has received a development-of-regional-impact development order pursuant to s. 380.06 but is no longer required to undergo development-of-regional-impact review by operation of law may elect to rescind the development order pursuant to the following procedures:

(1) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in subsection (2). Any proposed changes to developments which continue to be governed by a development-of-regional-impact development order must be approved pursuant to s. 380.06(7). The local government issuing the development order must monitor the development and enforce the development order. Local governments may not issue any permits or approvals or provide any extensions of services if the developer fails to act in substantial compliance with the development order. The development-of-regional-impact development order may be enforced as provided in s. 380.11.

(2) If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), if such permit or authorization is subject to enforcement through administrative or judicial remedies.

History.—s. 96, ch. 2002-20; s. 32, ch. 2002-296; s. 38, ch. 2005-290; s. 11, ch. 2006-220; ss. 57, 61, ch. 2011-139; s. 3, ch. 2012-75; s. 18, ch. 2012-99; s. 9, ch. 2016-148; s. 5, ch. 2018-158.

380.12 Rights unaffected by ch. 75-22.—Nothing in chapter 75-22, Laws of Florida, shall alter or affect rights previously vested under this chapter.

History.—s. 23, ch. 75-22.

PART II
COASTAL PLANNING AND MANAGEMENT

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380.285 Lighthouses; study; preservation; funding.

380.20 Short title.—Sections 380.205-380.27 may be cited as the "Florida Coastal Management Act."

History.—s. 5, ch. 78-287; s. 1, ch. 92-276; s. 186, ch. 99-13; s. 1, ch. 2002-275.

380.205 Definitions.—As used in ss. 380.205-380.27:

(1) "Department" means the Department of Environmental Protection.

(2) "Coastal zone" means that area of land and water from the territorial limits seaward to the most inland extent of marine influences. However, for planning and developing coordinated projects and initiatives for coastal resource protection and management, the department shall consider the coastal zone to be the geographical area encompassed

by the 35 Florida coastal counties listed in the Final Environmental Impact Statement for the Florida Coastal Management Program and the adjoining territorial sea. It is not the intent of this definition to limit the authority currently exercised under the federal law and the federally approved Florida Coastal Management Program by which projects landward and seaward of the 35 coastal counties are reviewed for consistency with the Florida Coastal Management Program.

(3) "Coastal Zone Management Act" means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. ss. 1451-1464).

History.—s. 2, ch. 92-276; s. 58, ch. 93-206; s. 187, ch. 99-13; s. 2, ch. 2002-275; s. 1, ch. 2002-277.

380.21 Legislative intent.—

(1) The Legislature finds that:

(a) The coast is rich in a variety of natural, commercial, recreational, ecological, industrial, and aesthetic resources, including, but not limited to, "energy facilities," as that term is defined in s. 304 of the Coastal Zone Management Act, of immediate potential value to the present and future well-being of the residents of this state.

(b) It is in the state and national interest to protect, maintain, and develop these resources through coordinated management.

(c) State land and water management policies should, to the maximum possible extent, be implemented by local governments through existing processes for the guidance of growth and development.

(2) The Legislature therefore grants authorization for the department to maintain and update a program based on existing statutes and existing rules and submit applications to the appropriate federal agency as a basis for receiving funds under the Coastal Zone Management Act. It is the further intent of the Legislature that enactment of this legislation shall not amend existing statutes or provide additional regulatory authority to any governmental body except as otherwise provided by s. 380.23. The enactment of this legislation shall not in any other way affect any existing statutory or regulatory authority.

(3)(a) The Legislature finds that the coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and aesthetic resources of immediate and potential value to the present and future well-being of the residents of this state which will be irretrievably lost or damaged if not properly managed. The participation by citizens of the state is an important factor in developing, adopting, amending, and implementing a program for management of the coastal zone, and management of the state's coastal zone requires a highly coordinated effort among state, regional, and local officials and agencies.

(b) The state coastal zone management program shall contain each of the program elements necessary to comply with the requirements of the Coastal Zone Management Act, specifically delineating the role of state, regional, and local agencies in implementing the program; and it shall provide that the appeal of any regulatory decision, other than those appeals provided for by existing law, shall be to the Governor and Cabinet.

(4) The Legislature recognizes that land acquisition has great potential to support the state's coastal management and regulatory efforts. Removing coastal properties from the pool of developable acreage reduces the adverse land use and environmental impacts the state coastal zone management program is attempting to eliminate or diminish, while at the same time minimizing public expenditures and reducing risk to life and property in storm-prone coastal areas. To this end, the acquisition of coastal lands shall be an important component of the coastal zone management program.

History.—s. 6, ch. 78-287; s. 5, ch. 84-257; s. 3, ch. 92-276; s. 59, ch. 93-206; s. 3, ch. 2002-275.

380.22 Lead agency authority and duties.—

(1) The department shall be the lead agency pursuant to the Coastal Zone Management Act and shall compile and submit to the appropriate federal agency applications to receive funds pursuant to the Coastal Zone Management Act. The state's program shall include program policies that only reference existing statutes and existing implementing administrative rules. In the event the program submitted pursuant to this subsection is rejected by the appropriate federal agency because of failure of this act, the existing statutes, or the existing implementing administrative rules to comply with the requirements of the federal Coastal Zone Management Act of 1972, as amended, no state coastal

management program shall become effective without prior legislative approval. The coastal management program may be amended from time to time to include changes in statutes and rules adopted pursuant to statutory authority other than this act.

(2) The department shall also have authority to:

(a) Establish advisory councils with sufficient geographic balance to ensure statewide representation.

(b) Coordinate central files and clearinghouse procedures for coastal resource data information and encourage the use of compatible information and standards.

(c) Provide to the extent practicable financial, technical, research, and legal assistance to effectuate the purposes of this act.

(d) Review rules of other affected agencies to determine consistency with the program and to report any inconsistencies to the Legislature.

(3) The department shall adopt by rule procedures and criteria for the evaluation of subgrant applications that seek to receive a portion of those funds allotted to the state under the federal Coastal Zone Management Act.

(4) The department shall establish a county-based process for identifying, and setting priorities for acquiring, coastal properties in coordination with the Acquisition and Restoration Council, or its successor, so these properties may be acquired as part of the state's land acquisition programs. This process shall include the establishment of criteria for prioritizing coastal acquisitions which, in addition to recognizing pristine coastal properties and coastal properties of significant or important environmental sensitivity, recognize hazard mitigation, beach access, beach management, urban recreation, and other policies necessary for effective coastal management.

(5) In addition to other criteria established by statute or rule, the following criteria shall be considered when establishing priorities for public acquisition of coastal property:

(a) The value of acquiring coastal high-hazard parcels, consistent with hazard mitigation and postdisaster redevelopment policies, in order to minimize the risk to life and property and to reduce the need for future disaster assistance.

(b) The value of acquiring beachfront parcels, irrespective of size, to provide public access and recreational opportunities in highly developed urban areas.

(c) The value of acquiring identified parcels the development of which would adversely affect coastal resources.

(6) The department shall develop and implement a strategy to enhance citizen awareness and involvement in Florida's coastal management programs.

History.—s. 7, ch. 78-287; s. 4, ch. 92-276; s. 60, ch. 93-206; s. 11, ch. 98-146; s. 188, ch. 99-13; s. 42, ch. 99-247; s. 4, ch. 2002-275.

380.23 Federal consistency.—

(1) When a federally licensed or permitted activity subject to federal consistency review requires a state license, the issuance or renewal of a state license shall automatically constitute the state's concurrence that the licensed activity or use, as licensed, is consistent with the federally approved program. When a federally licensed or permitted activity subject to federal consistency review requires a state license, the denial of a state license shall automatically constitute the state's finding that the proposed activity or use is not consistent with the state's federally approved program, unless the United States Secretary of Commerce determines that such activity or use is in the national interest as provided in the Coastal Zone Management Act.

(2)(a) Where federal licenses, permits, activities, and projects listed in subsection (3) are subject to federal consistency review and are seaward of the jurisdiction of the state, or there is no state agency with sole jurisdiction, the department shall be responsible for the consistency review and determination; however, the department shall not make a determination that the license, permit, activity, or project is consistent if any other state agency with significant analogous responsibility makes a determination of inconsistency. All decisions and determinations under this subsection shall be appealable to the Governor and Cabinet.

(b) However, effective October 1, 1992, if a finding or recommendation of inconsistency has been made by a state agency with regard to federal activities and projects listed under paragraphs (3)(a) and (b) and the inconsistency cannot be resolved by the department, the department shall refer such finding or recommendation to the Governor for final determination. The Governor shall review the comments, findings, or recommendations of all participating

agencies and shall affirm the finding or recommendation of inconsistency unless the Governor determines that the federal activity or project is consistent with the enforceable social, economic, and environmental policies of the coastal management program. Any permitting, licensing, or proprietary authority of an agency shall not be preempted or otherwise limited by any provision of this paragraph. Consistency determinations made pursuant to this paragraph shall not be appealable to the Governor or Cabinet.

(3) Consistency review shall be limited to review of the following activities, uses, and projects to ensure that such activities, uses, and projects are conducted in accordance with the state's coastal management program:

(a) Federal development projects and activities of federal agencies which significantly affect coastal waters and the adjacent shorelands of the state.

(b) Federal assistance projects that significantly affect coastal waters and the adjacent shorelands of the state and that are reviewed as part of the review process developed pursuant to Presidential Executive Order 12372.

(c) Federally licensed or permitted activities affecting land or water uses when such activities are in or seaward of the jurisdiction of local governments required to develop a coastal zone protection element as provided in s. 380.24 and when such activities involve:

1. Permits and licenses required under the Rivers and Harbors Act of 1899, 33 U.S.C. ss. 401 et seq., as amended.

2. Permits and licenses required under the Marine Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. ss. 1401-1445 and 16 U.S.C. ss. 1431-1445, as amended.

3. Permits and licenses required under the Federal Water Pollution Control Act of 1972, 33 U.S.C. ss. 1251 et seq., as amended, unless such permitting activities have been delegated to the state pursuant to said act.

4. Permits and licenses relating to the transportation of hazardous substance materials or transportation and dumping which are issued pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. ss. 1501 et seq., as amended, or 33 U.S.C. s. 1321, as amended.

5. Permits and licenses required under 15 U.S.C. ss. 717-717w, 3301-3432, 42 U.S.C. ss. 7101-7352, and 43 U.S.C. ss. 1331-1356 for construction and operation of interstate gas pipelines and storage facilities.

6. Permits and licenses required for the siting and construction of any new electrical power plants as defined in s. 403.503(14), as amended, and the licensing and relicensing of hydroelectric power plants under the Federal Power Act, 16 U.S.C. ss. 791a et seq., as amended.

7. Permits and licenses required under the Mining Law of 1872, 30 U.S.C. ss. 21 et seq., as amended; the Mineral Lands Leasing Act, 30 U.S.C. ss. 181 et seq., as amended; the Mineral Leasing Act for Acquired Lands, 30 U.S.C. ss. 351 et seq., as amended; the Federal Land Policy and Management Act, 43 U.S.C. ss. 1701 et seq., as amended; the Mining in the Parks Act, 16 U.S.C. ss. 1901 et seq., as amended; and the OCS Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, for drilling, mining, pipelines, geological and geophysical activities, or rights-of-way on public lands and permits and licenses required under the Indian Mineral Development Act, 25 U.S.C. ss. 2101 et seq., as amended.

8. Permits and licenses for areas leased under the OCS Lands Act, 43 U.S.C. ss. 1331 et seq., as amended, including leases and approvals of exploration, development, and production plans.

9. Permits and licenses required under the Deepwater Port Act of 1974, 33 U.S.C. ss. 1501 et seq., as amended.

10. Permits required for the taking of marine mammals under the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. s. 1374.

(d) Federal activities within the territorial limits of neighboring states when the Governor and the department determine that significant individual or cumulative impact to the land or water resources of the state would result from the activities.

(4) The department may adopt rules establishing procedures for conducting consistency reviews of activities, uses, and projects for which consistency review is required pursuant to subsections (1), (2), and (3). Such rules shall include procedures for the expeditious handling of emergency repairs to existing facilities for which consistency review is required. The department may also adopt rules prescribing the data and information needed for the review of consistency certifications and determinations. When an environmental impact statement or environmental assessment required by the National Environmental Policy Act has been prepared for a specific activity, use, or project subject to federal consistency review under this section, the environmental impact statement or environmental assessment shall

be data and information necessary for the state's consistency review of that federal activity, use, or project under this section.

(5) In any coastal management program submitted to the appropriate federal agency for its approval pursuant to this act, the department shall specifically waive its right to determine the consistency with the coastal management program of all federally licensed or permitted activities not specifically listed in subsection (3).

(6) Agencies authorized to review and comment on the consistency of federal activities subject to state review under the Florida Coastal Management Program are those agencies charged with the implementation of the statutes and rules included in the federally approved program. Each agency shall be afforded an opportunity to provide the department or the state licensing agency with its comments and determination regarding the consistency of the federal activity with the statutes and rules included in the federally approved program implemented by the agency. An agency that submits a determination of inconsistency to the department or a state licensing agency shall be an indispensable party to any administrative or judicial proceeding in which such determination is an issue, shall be responsible for defending its determination in such proceedings, and shall be liable for any damages, costs, and attorney's fees awarded in the action as a consequence of such determination.

(7) Agencies shall not review for federal consistency purposes an application for a federally licensed or permitted activity if the activity is vested, exempted, or excepted under its own regulatory authority.

(8) The department shall review the items listed in subsection (3) to determine if in certain circumstances such items would constitute minor permit activities. If the department determines that the list contains minor permit activities, it may by rule establish a program of general concurrence pursuant to federal regulation which shall allow similar minor activities, in the same geographic area, to proceed without prior department review for federal consistency.

History.—s. 8, ch. 78-287; s. 1, ch. 90-220; s. 53, ch. 90-331; s. 5, ch. 92-276; s. 61, ch. 93-206; s. 29, ch. 98-176; s. 5, ch. 2002-275; s. 5, ch. 2005-166; s. 74, ch. 2007-5; s. 63, ch. 2008-227.

380.24 Local government participation.—Units of local government abutting the Gulf of Mexico or the Atlantic Ocean, or which include or are contiguous to waters of the state where marine species of vegetation listed by rule as ratified in s. 373.4211 constitute the dominant plant community, shall develop a coastal zone protection element pursuant to s. 163.3177. Such units of local government shall be eligible to receive technical assistance from the state in preparing coastal zone protection elements and shall be the only units of local government eligible to apply to the department for available financial assistance. Local government participation in the coastal management program authorized by this act shall be voluntary. All permitting and enforcement of dredged-material management and other related activities subject to permit under the provisions of chapters 161 and 253 and part IV of chapter 373 for deepwater ports identified in s. 403.021(9)(b) shall be done through the department consistent with the provisions of s. 403.021(9).

History.—s. 9, ch. 78-287; s. 11, ch. 94-122; s. 142, ch. 96-320; s. 2, ch. 2002-277.

380.25 Previous coastal zone atlases rejected.—The legislative draft of the coastal management program submitted to the Legislature by the department dated March 1, 1978, and the previously prepared coastal zone atlases are expressly rejected as the state's coastal management program. The department shall not divide areas of the state into vital, conservation, and development areas.

History.—s. 10, ch. 78-287.

380.26 Establishment of coastal building zone for certain counties.—The coastal building zone for counties not subject to s. 161.053 shall be as described in s. 161.54(1), after a public hearing is held in the affected county by the state land planning agency or its designee. The state land planning agency shall furnish the clerk of the circuit court in each county affected a survey of such line with references made to permanently installed monuments at such intervals and locations as may be necessary.

History.—s. 37, ch. 85-55.

380.27 Coastal infrastructure policy.—

(1) No state funds shall be used for the purpose of constructing bridges or causeways to coastal barrier islands, as defined in s. 161.54(2), which are not accessible by bridges or causeways on October 1, 1985.

(2) After a local government has an approved coastal management element pursuant to s. 163.3178, no state funds which are unobligated at the time the element is approved shall be expended for the purpose of planning, designing, excavating for, preparing foundations for, or constructing projects which increase the capacity of infrastructure unless such expenditure is consistent with the approved coastal management element.

History.—s. 38, ch. 85-55; s. 38, ch. 95-196.

380.276 Beaches and coastal areas; display of uniform warning and safety flags at public beaches; placement of uniform notification signs; beach safety education.—

(1) It is the intent of the Legislature that a cooperative effort among state agencies and local governments be undertaken to plan for and assist in the display of uniform warning and safety flags, and the placement of uniform notification signs that provide the meaning of such warning and safety flags, at public beaches along the coast of the state. Because the varying natural conditions of Florida's public beaches and coastal areas pose significant risks to the safety of tourists and the general public, it is important to inform the public of the need to exercise caution.

(2) The Department of Environmental Protection, through the Florida Coastal Management Program, shall direct and coordinate the uniform warning and safety flag program. The purpose of the program shall be to encourage the display of uniform warning and safety flags at public beaches along the coast of the state and to encourage the placement of uniform notification signs that provide the meaning of such flags. Unless additional safety and warning devices are authorized pursuant to subsection (7), only warning and safety flags developed by the department shall be displayed. Participation in the program shall be open to any government having jurisdiction over a public beach along the coast, whether or not the beach has lifeguards.

(3) The Department of Environmental Protection shall develop a program for the display of uniform warning and safety flags at public beaches along the coast of the state and for the placement of uniform notification signs that provide the meaning of the flags displayed. Such a program shall provide:

(a) For posted notification of the meaning of each of the warning and safety flags at all designated public access points.

(b) That uniform notification signs be posted in a conspicuous location and be clearly legible.

(c) A standard size, shape, color, and definition for each warning and safety flag.

(4) The Department of Environmental Protection is authorized, within the limits of appropriations or grants available to it for such purposes, to establish and operate a program to encourage the display of uniform warning and safety flags at public beaches along the coast of the state and to encourage the placement of uniform notification signs that provide the meaning of the flags displayed. The department shall coordinate the implementation of the uniform warning and safety flag program with local governing bodies and the Florida Beach Patrol Chiefs Association.

(5) The Department of Environmental Protection may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this section.

(6) Due to the inherent danger of constantly changing surf and other naturally occurring conditions along Florida's coast, the state, state agencies, local and regional government entities or authorities, and their individual employees and agents, shall not be held liable for any injury or loss of life caused by changing surf and other naturally occurring conditions along coastal areas, whether or not uniform warning and safety flags or notification signs developed by the department are displayed or posted.

(7) The Department of Environmental Protection, through the Florida Coastal Management Program, may develop and make available to the public other educational information and materials related to beach safety and may also authorize state agencies and local governments to use additional safety and warning devices in conjunction with the display of uniform warning and safety flags at public beaches.

History.—s. 9, ch. 2002-275; s. 1, ch. 2005-161; s. 14, ch. 2014-151.

380.285 Lighthouses; study; preservation; funding.—The Division of Historical Resources of the Department of State shall undertake a study of the lighthouses in the state. The study must determine the location, ownership,

condition, and historical significance of all lighthouses in the state and ensure that all historically significant lighthouses are nominated for inclusion on the National Register of Historic Places. The study must assess the condition and restoration needs of historic lighthouses and develop plans for appropriate future public access and use. The Division of Historical Resources shall take a leadership role in implementing plans to stabilize lighthouses and associated structures and to preserve and protect them from future deterioration. When possible, the lighthouses and associated buildings should be made available to the public for educational and recreational purposes. The Department of State shall request in its annual legislative budget requests funding necessary to carry out the duties and responsibilities specified in this act. Funds for the rehabilitation of lighthouses should be allocated through matching grants-in-aid to state and local government agencies and to nonprofit organizations. The Department of Environmental Protection may assist the Division of Historical Resources in projects to accomplish the goals and activities described in this section.

History.—s. 6, ch. 2001-200; s. 6, ch. 2002-275; s. 3, ch. 2002-277; s. 261, ch. 2011-142.

PART III
FLORIDA COMMUNITIES TRUST

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History.—s. 28, ch. 89-175; s. 2, ch. 90-192; s. 4, ch. 91-192; s. 5, ch. 91-429.

380.502 Legislative findings and intent.—

(1) The Legislature finds that the conservation of natural areas is vital to the state's economy and ecology. The Legislature further finds that rapid increases in population and development throughout Florida threaten the integrity of the environment and limit opportunities for citizens and visitors to enjoy the state's natural areas. The Legislature further finds that inappropriate and poorly planned land uses overburden natural resources and disrupt the state's ecology. Finally, the Legislature finds that the quality of life, environmental quality, as well as the viability and vitality of the urban areas of this state are directly linked to urban open space and greenways. The creation of greenways; expansion of green spaces; enhancement of recreation areas; preservation of working waterfronts; and protection and restoration of urban lakes, rivers, and watersheds in the urban areas of this state are necessary to link populated areas with natural areas, preserve unique cultural and heritage sites, provide land for recreational opportunities to enhance the health and well-being of the urban residents of this state, improve water quality, reduce the level of urban crime and violence, and build confidence and self-esteem among the urban youth of this state.

(2) The Legislature recognizes that the primary responsibility for establishing well-planned land use rests at the local government level through the implementation of comprehensive plans. The Legislature also recognizes that many of the goals and objectives of these comprehensive plans will not be met through regulation, but require creative and innovative action to ensure their accomplishment.