The Florida Senate

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Title XXVIII NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND USE	**Chapter 380** **LAND AND WATER MANAGEMENT**

CHAPTER 380
LAND AND WATER MANAGEMENT

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PART I
ENVIRONMENTAL LAND AND WATER MANAGEMENT

380.012 Short title.—Sections 380.012, 380.021, 380.031, 380.04, 380.05, 380.06, 380.07, and 380.08 shall be known and may be cited as "The Florida Environmental Land and Water Management Act of 1972."

History.—s. 1, ch. 72-317; s. 14, ch. 2001-62.

380.021 Purpose.—It is the legislative intent that, in order to protect the natural resources and environment of this state as provided in s. 7, Art. II of the State Constitution, ensure a water management system that will reverse the deterioration of water quality and provide optimum utilization of our limited water resources, facilitate orderly and well-planned development, and protect the health, welfare, safety, and quality of life of the residents of this state, it is necessary adequately to plan for and guide growth and development within this state. In order to accomplish these purposes, it is necessary that the state establish land and water management policies to guide and coordinate local decisions relating to growth and development; that such 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; and that all the existing rights of private property be preserved in accord with the constitutions of this state and of the United States.

History.—s. 2, ch. 72-317.

380.031 Definitions.—As used in this chapter:

(1) "Administration commission" or "commission" means the Governor and the Cabinet; and for purposes of this chapter the commission shall act on a simple majority.

(2) "Developer" means any person, including a governmental agency, undertaking any development as defined in this chapter.

(3) "Development order" means any order granting, denying, or granting with conditions an application for a development permit.

(4) "Development permit" includes any building permit, zoning permit, plat approval, or rezoning, certification, variance, or other action having the effect of permitting development as defined in this chapter.

(5) "Downtown development authority" means a local governmental agency established under part III of chapter 163 or created with similar powers and responsibilities by special act for the purpose of planning, coordinating, and assisting in the implementation, revitalization, and redevelopment of a specific downtown area of a city.

(6) "Governmental agency" means:

(a) The United States or any department, commission, agency, or other instrumentality thereof;

(b) This state or any department, commission, agency, or other instrumentality thereof;

(c) Any local government, as defined in this chapter, or any department, commission, agency, or other instrumentality thereof;

(d) Any school board or other special district, authority, or other governmental entity.

(7) "Land" means the earth, water, and air above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

(8) "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land.

(9) "Land use" means the development that has occurred on land.

(10) "Local comprehensive plan" means any or all local comprehensive plans or elements or portions thereof prepared, adopted, or amended pursuant to the Community Planning Act, as amended.

(11) "Local government" means any county or municipality and, where relevant, any joint airport zoning board.

(12) "Major public facility" means any publicly owned facility of more than local significance.

(13) "Parcel of land" means any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

(14) "Person" means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

(15) "Regional planning agency" means the agency designated by the state land planning agency to exercise responsibilities under this chapter in a particular region of the state.

(16) "Rule" means a rule adopted under chapter 120.

(17) "State land development plan" means a comprehensive statewide plan or any portion thereof setting forth state land development policies. Such plan shall not have any legal effect until enacted by general law or the Legislature confers express rulemaking authority on the state land planning agency to adopt such plan by rule for specific application.

(18) "State land planning agency" means the Department of Economic Opportunity and may be referred to in this part as the "department."

(19) "Structure" means anything constructed, installed, or portable, the use of which requires a location on a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. "Structure" also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks, and advertising signs.

(20) "Resource planning and management committee" or "committee" means a committee appointed pursuant to s. 380.045.

History.—s. 3, ch. 72-317; s. 1, ch. 79-73; s. 1, ch. 80-313; s. 1, ch. 83-308; s. 41, ch. 85-55; s. 32, ch. 98-176; s. 53, ch. 2011-139; s. 257, ch. 2011-142.

380.032 State land planning agency; powers and duties.—The state land planning agency shall have the power and the duty to:

(1) Exercise general supervision of the administration and enforcement of this act and all rules and regulations promulgated hereunder.

(2)(a) Adopt or modify rules to carry out the intent and purposes of this act. Such rules shall be consistent with the provisions of this act.

(b) Within 20 days following adoption, any substantially affected party may initiate review of any rule adopted by the state land planning agency interpreting the guidelines and standards by filing a request for review with the Administration Commission and serving a copy on the state land planning agency. Filing a request for review shall stay the effectiveness of the rule pending a decision by the Administration Commission. Within 45 days following receipt of a request for review, the commission shall either reject the rule or approve the rule, with or without modification.

(3) Enter into agreements with any landowner, developer, or governmental agency as may be necessary to effectuate the provisions and purposes of this act or any rules promulgated hereunder.

History.—s. 1, ch. 77-215; s. 2, ch. 80-313; s. 42, ch. 85-55.

380.04 Definition of development.—

(1) The term "development" means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.

(2) The following activities or uses shall be taken for the purposes of this chapter to involve "development," as defined in this section:

(a) A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.

(b) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.

(c) Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction" as defined in s. 161.021.

(d) Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.

(e) Demolition of a structure.

(f) Clearing of land as an adjunct of construction.

(g) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

(3) The following operations or uses shall not be taken for the purpose of this chapter to involve "development" as defined in this section:

(a) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.

(b) Work by any utility and other persons engaged in the distribution or transmission of gas, electricity, or water, for the purpose of inspecting, repairing, or renewing on established rights-of-way or corridors, or constructing on established or to-be-established rights-of-way or corridors, any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like. This provision conveys no property interest and does not eliminate any applicable notice requirements to affected land owners.

(c) Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.

(d) The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.

(e) The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes.

(f) A change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the same class.

(g) A change in the ownership or form of ownership of any parcel or structure.

(h) The creation or termination of rights of access, riparian rights, easements, distribution and transmission corridors, covenants concerning development of land, or other rights in land.

(4) "Development," as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of subsection (1).

History.—s. 4, ch. 72-317; s. 2, ch. 83-308; s. 94, ch. 2002-20; s. 29, ch. 2002-296; s. 2, ch. 2018-34.

380.045 Resource planning and management committees; objectives; procedures.—

(1) Prior to recommending an area as an area of critical state concern pursuant to s. 380.05, the Governor, acting as the chief planning officer of the state, shall appoint a resource planning and management committee for the area under study by the state land planning agency. The objective of the committee shall be to organize a voluntary, cooperative resource planning and management program to resolve existing, and prevent future, problems which may endanger those resources, facilities, and areas described in s. 380.05(2) within the area under study by the state land planning agency.

(2) The committee shall include, but shall not be limited to, representation from each of the following: elected officials from the local governments within the area under study; the planning office of each of the local governments within the area under study; the state land planning agency; any other state agency under chapter 20 a representative of which the Governor feels is relevant to the compilation of the committee; and a water management district, if appropriate, and regional planning council all or part of whose jurisdiction lies within the area under study. After the appointment of the members, the Governor shall select a chair and vice chair. A staff member of the state land planning agency shall be appointed by the director of such agency to serve as the secretary of the committee. The state land planning agency shall, to the greatest extent possible, provide technical assistance and administrative support to the committee. Meetings will be called as needed by the chair or on the demand of three or more members of the committee. The committee will act on a simple majority of a quorum present and shall make a report within 6 months to the head of the state land planning agency. The committee shall, from the time of appointment, remain in existence for no less than 6 months.

(3) Not later than 12 months after its appointment by the Governor, the committee shall either adopt a proposed voluntary resource planning and management program for the area under study or recommend that a voluntary resource planning and management program not be adopted. The proposed voluntary resource planning and management program shall contain the committee findings with respect to problems that endanger those resources, facilities, and areas described in s. 380.05(2) and shall contain detailed recommendations for state, regional, and local governmental actions necessary to resolve current and prevent future problems identified by the committee. A major objective of the proposed voluntary resource planning and management program shall be the effective coordination of state, regional, and local planning; program implementation; and regulatory activities for comprehensive resource management. The committee shall submit the proposed voluntary resource planning and management program to the head of the state land planning agency, who shall transmit the program along with the recommendations of the agency for monitoring and enforcing the program, as well as any other recommendations deemed appropriate, to the Administration Commission.

(4) The Administration Commission shall by resolution approve, approve as modified, or reject the proposed voluntary resource planning and management program and state land planning agency recommendations; and the Administration Commission shall request each state or regional agency that is responsible for implementing a portion of an approved program to conduct its programs and regulatory activities in a manner consistent with the approved program. Each state and regional agency involved in implementing the program shall cooperate to the maximum extent possible in ensuring that the program is given full effect.

(5) The state land planning agency shall report to the Administration Commission within 12 months of the approval of the program by the commission concerning the implementation and the effects of the approved voluntary resource planning and management program. The report shall include, but shall not be limited to:

(a) An assessment of state agency compliance with the program, including the degree to which the program recommendations have been integrated into agency planning, program implementation, regulatory activities, and rules;

(b) An assessment of the compliance by each affected local government with the program;

(c) An evaluation of state, regional, and local monitoring and enforcement activities and recommendations for improving such activities; and

(d) A recommendation as to whether or not all or any portion of the study area should be designated an area of critical state concern pursuant to s. 380.05.

The state land planning agency may make such other reports to the commission as it deems necessary, including recommending that all or any portion of the study area be designated an area of critical state concern because of special circumstances in the study area or in the implementation of the approved voluntary resource planning and management program.

History.—s. 2, ch. 79-73; s. 1, ch. 84-281; s. 640, ch. 95-148.

380.05 Areas of critical state concern.—

(1)(a) The state land planning agency may from time to time recommend to the Administration Commission specific areas of critical state concern. In its recommendation, the agency shall include recommendations with respect to the purchase of lands situated within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Program. The agency also shall include any report or recommendation of a resource planning and management committee appointed pursuant to s. 380.045; the dangers that would result from uncontrolled or inadequate development of the area and the advantages that would be achieved from the development of the area in a coordinated manner; a detailed boundary description of the proposed area; specific principles for guiding development within the area; an inventory of lands owned by the state, federal, county, and municipal governments within the proposed area; and a list of the state agencies with programs that affect the purpose of the designation. The agency shall recommend actions which the local government and state and regional agencies must accomplish in order to implement the principles for guiding development. These actions may include, but need not be limited to, revisions of the local comprehensive plan and adoption of land development regulations, density requirements, and special permitting requirements.

(b) Within 45 days following receipt of a recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the recommendation with or without modification and by rule designate the area of critical state concern. Any rule that designates an area of critical state concern must include:

1. A detailed boundary description of the area.
2. Principles for guiding development.
3. A clear statement of the purpose for the designation.
4. A precise checklist of actions which, when implemented, will result in repeal of the designation by the Administration Commission, and the agencies or entities responsible for taking those actions.
5. A list of those issues or programs for which mechanisms must be in place to assure ongoing implementation of the actions taken to result in repeal of the designation.
6. A list of the state agencies which, in addition to those specified in subsection (22), administer programs that affect the purpose of the designation.

The rule shall become effective 20 days after being filed with the Secretary of State, except that an emergency rule adopted by the commission and designating an area of critical state concern shall become effective immediately on being filed. Any rule adopted pursuant to this paragraph shall be presented to the Legislature for review pursuant to paragraph (c). A statement of estimated regulatory costs prepared pursuant to s. 120.541 shall not be a ground for a challenge of the rule; however, a landowner shall not be precluded from using adverse economic results as grounds for challenge. Such principles for guiding development shall apply to any development undertaken subsequent to the legislative review pursuant to paragraph (c) of the designation of the area of critical state concern with or without modification but prior to the adoption of land development rules and regulations or a local comprehensive plan for the critical area pursuant to subsections (6) and (8). No boundaries or principles for guiding development shall be adopted without a specific finding by the commission that the boundaries or principles are consistent with the purpose of the designation. The commission is not authorized to adopt any rule that would provide for a moratorium on development in any area of critical state concern.

(c) A rule adopted by the commission pursuant to paragraph (b) designating an area of critical state concern and principles for guiding development shall be submitted to the President of the Senate and the Speaker of the House of Representatives for review no later than 30 days prior to the next regular session of the Legislature. The Legislature may reject, modify, or take no action relative to the adopted rule. In its deliberations, the Legislature may consider, among other factors, whether a resource planning and management committee has established a program pursuant to s. 380.045. In addition to any other data and information required pursuant to this chapter, each rule presented to the Legislature shall include a detailed legal description of the boundary of the area of critical state concern, proposed principles for guiding development, and a detailed statement of how the area meets the criteria for designation as provided in subsection (2).

(d) If, after the repeal of the boundary designation of an area of critical state concern pursuant to subsection (15), the state land planning agency determines that the administration of the local land development regulations or a local comprehensive plan within a formerly designated area is inadequate to protect the former area of critical state concern, then the state land planning agency may recommend to the commission that the area be redesignated as an area of critical state concern. Within 45 days following the receipt of the recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the same with or without modification. The commission may, by rule, make such redesignation effective immediately, at which time the boundaries, regulations, and plans in effect at the time the previous designation was repealed shall be reinstated. Within 90 days of such redesignation, the commission shall begin rulemaking procedures to designate the area an area of critical state concern under paragraph (b).

(2) An area of critical state concern may be designated only for:

(a) An area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, but not limited to, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, the uncontrolled private or public development of which would cause substantial deterioration of such resources. Specific criteria which shall be considered in designating an area under this paragraph include:

1. Whether the economic value of the area, as determined by the type, variety, distribution, relative scarcity, and condition of the environmental or natural resources within the area, is of substantial regional or statewide importance.

2. Whether the ecological value of the area, as determined by the physical and biological components of the environmental system, is of substantial regional or statewide importance.

3. Whether the area is a designated critical habitat of any state or federally designated threatened or endangered plant or animal species.

4. Whether the area is inherently susceptible to substantial development due to its geographic location or natural aesthetics.

5. Whether any existing or planned substantial development within the area will directly, significantly, and deleteriously affect any or all of the environmental or natural resources of the area which are of regional or statewide importance.

(b) An area containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts. Specific criteria which shall be considered in designating an area under this paragraph include:

1. Whether the area is associated with events that have made a significant contribution to the history of the state or region.

2. Whether the area is associated with the lives of persons who are significant to the history of the state or region.

3. Whether the area contains any structure that embodies the distinctive characteristics of a type, period, or method of construction, that represents the work of a master, that possesses high artistic values, or that represents a significant and distinguishable entity the components of which may lack individual distinction and which are of regional or statewide importance.

4. Whether the area has yielded, or will likely yield, information important to the prehistory or history of the state or region.

(c) An area having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment including, but not limited to, highways, ports, airports, energy facilities, and water management projects.

(3) Each regional planning agency may recommend to the state land planning agency from time to time areas wholly or partially within its jurisdiction that meet the criteria for areas of critical state concern as defined in this section. Each regional planning agency shall solicit from the local governments within its jurisdiction suggestions as to areas to be recommended. A local government in an area where there is no regional planning agency may recommend to the state land planning agency from time to time areas wholly or partially within its jurisdiction that meet the

criteria for areas of critical state concern as defined in this section. If the state land planning agency does not recommend to the commission as an area of critical state concern an area substantially similar to one that has been recommended, it shall respond in writing as to its reasons therefor.

(4) Prior to submitting any recommendation to the commission under subsection (1), the state land planning agency shall give notice to any committee appointed pursuant to s. 380.045 and to all local governments and regional planning agencies that include within their boundaries any part of any area of critical state concern proposed to be designated by the rule, in addition to any notice otherwise required under chapter 120.

(5) After the commission adopts a rule designating the boundaries of, and principles for guiding development in, an area of critical state concern and within 180 days of such adoption, the local government having jurisdiction may submit to the state land planning agency its existing land development regulations and local comprehensive plan for the area, if any, or shall prepare, adopt, and submit the new or modified regulations and plan, the local government taking into consideration the principles set forth in the rule designating the area.

(6) Once the state land planning agency determines whether the land development regulations or local comprehensive plan or amendment submitted by a local government is consistent with the principles for guiding the development of the area specified under the rule designating the area, the state land planning agency shall approve or reject the land development regulations or portions thereof by final order, and shall determine compliance of the plan or amendment, or portions thereof, pursuant to s. 163.3184. The state land planning agency shall publish its final order to approve or reject land development regulations, which shall constitute final agency action, in the Florida Administrative Register. If the final order is challenged pursuant to s. 120.57, the state planning agency has the burden of proving the validity of the final order. Such approval or rejection of the land development regulations shall be no later than 60 days after submission of the land development regulations by the local government. No proposed land development regulation within an area of critical state concern becomes effective under this subsection until the state land planning agency issues its final order or, if the final order is challenged, until the challenge to the order is resolved pursuant to chapter 120.

(7) The state land planning agency and any applicable regional planning agency shall, to the greatest extent possible, provide technical assistance to local governments in the preparation of the land development regulations and local comprehensive plan for areas of critical state concern.

(8) If any local government fails to submit land development regulations or a local comprehensive plan, or if the regulations or plan or plan amendment submitted do not comply with the principles for guiding development set out in the rule designating the area of critical state concern, within 120 days after the adoption of the rule designating an area of critical state concern, or within 120 days after the issuance of a recommended order on the compliance of the plan or plan amendment pursuant to s. 163.3184, or within 120 days after the effective date of an order rejecting a proposed land development regulation, the state land planning agency shall submit to the commission recommended land development regulations and a local comprehensive plan or portions thereof applicable to that local government's portion of the area of critical state concern. Within 45 days following receipt of the recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the recommendation with or without modification, and by rule establish land development regulations and a local comprehensive plan applicable to that local government's portion of the area of critical state concern. However, such rule shall not become effective prior to legislative review of an area of critical state concern pursuant to paragraph (1)(c). In the rule, the commission shall specify the extent to which its land development regulations, plans, or plan amendments will supersede, or will be supplementary to, local land development regulations and plans. Notice of any proposed rule issued under this section shall be given to all local governments and regional planning agencies in the area of critical state concern, in addition to any other notice required under chapter 120. The land development regulations and local comprehensive plan adopted by the commission under this section may include any type of regulation and plan that could have been adopted by the local government. Any land development regulations or local comprehensive plan or plan amendments adopted by the commission under this section shall be administered by the local government as part of, or in the absence of, the local land development regulations and local comprehensive plan.

(9) If, within 12 months after the commission adopts a rule designating an area of critical state concern, land development regulations or local comprehensive plans for the area have not become effective under either subsection

(6) or subsection (8), the designation of the area as an area of critical state concern terminates. No part of such area may be recommended for redesignation until at least 12 months after the date the designation terminates pursuant to this subsection. The running of the 12-month period subsequent to the initial designation shall be tolled upon challenge pursuant to the provisions of chapter 120 to either the designation of the area of critical state concern or the adoption of land development regulations and local comprehensive plans under subsection (6) or subsection (8).

(10) At any time after the adoption of land development regulations and plans by the commission under this section, a local government may propose land development regulations or a local comprehensive plan which, if approved by the state land planning agency as provided in subsection (6), will supersede any regulations or plans adopted under subsection (8).

(11) Land development regulations or a local comprehensive plan submitted by a local government in an area of critical state concern and approved pursuant to subsection (6) may be amended or rescinded by the local government, but the amendment or rescission becomes effective only upon approval thereof by the state land planning agency. The state land planning agency shall either approve or reject the requested changes within 60 days of receipt thereof. Land development regulations or local comprehensive plans for an area of critical state concern adopted by the commission under subsection (8) may be amended or rescinded by rule by the commission in the same manner as for original adoption.

(12) Upon the request of a substantially interested person pursuant to s. 120.54(7), a local government or regional planning agency within the designated area, or the state land planning agency, the commission may by rule remove, contract, or expand any designated boundary. Boundary expansions are subject to legislative review pursuant to paragraph (1)(c). No boundary may be modified without a specific finding by the commission that such changes are consistent with necessary resource protection. The total boundaries of an entire area of critical state concern shall not be removed by the commission unless a minimum time of 1 year has elapsed from the adoption of regulations and a local comprehensive plan pursuant to subsection (1), subsection (6), subsection (8), or subsection (10). Before totally removing such boundaries, the commission shall make findings that the regulations and plans adopted pursuant to subsection (1), subsection (6), subsection (8), or subsection (10) are being effectively implemented by local governments within the area of critical state concern to protect the area and that adopted local government comprehensive plans within the area have been conformed to principles for guiding development for the area.

(13) If the state land planning agency determines that the administration of the local land development regulations or local comprehensive plans within the area is inadequate to protect the state or regional interest prior to the repeal of the critical state concern designation pursuant to subsection (15), the state land planning agency may institute appropriate judicial proceedings, as provided in s. 380.11, to compel proper enforcement of the land development regulations or plans.

(14) Any local government which lies either wholly or partially within an area of critical state concern and which has previously adopted a local government comprehensive plan pursuant to chapter 163 shall conform such plan to the principles for guiding development for the area of critical state concern. No later than January 1, 1984, or any other time as agreed upon in writing by the state land planning agency and the governing body of the local government, these plans shall be submitted to the state land planning agency for review and action as provided in subsection (6) or subsection (8).

(15) Any rule adopted pursuant to this section designating the boundaries of an area of critical state concern and the principles for guiding development therein shall be repealed by the commission no earlier than 12 months and no later than 3 years after approval by the state land planning agency or adoption by the commission of all land development regulations and local comprehensive plans pursuant to subsection (6), subsection (8), or subsection (10), and the implementation of all the actions listed in the designation rule for repeal of the designation. Any repeal pursuant to this subsection may be limited to any portion of the area of critical state concern. The repeal must be contingent upon approval by the state land planning agency of local land development regulations and plans pursuant to subsection (6) or subsection (10) and upon such regulations and plans being effective for a period of 12 months.

(16) No person shall undertake any development within any area of critical state concern except in accordance with this chapter.

(17) If an area of critical state concern has been designated under subsection (1) and if land development regulations for the area of critical state concern have not yet become effective under subsection (6) or subsection (8), a local government may grant development permits in accordance with such land development regulations as were in effect immediately prior to the designation of the area as an area of critical state concern.

(18) Neither the designation of an area of critical state concern nor the adoption of any regulations for such an area shall in any way limit or modify the rights of any person to complete any development that was authorized by registration of a subdivision pursuant to former chapter 498 or former chapter 478, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position, and which registration or recordation was accomplished, or which permit or authorization was issued, prior to the approval under subsection (6), or the adoption under subsection (8), of land development regulations for the area of critical state concern. If a developer has by his or her actions in reliance on prior regulations obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to the developer's interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

(19) In addition to any other notice required to be given under the local land development regulations, the local government shall give notice to the state land planning agency of any application for a development permit in any area of critical state concern, except to the extent that the state land planning agency has in writing waived its right to such notice in regard to all or certain classes of such applications. The state land planning agency may by rule specify additional classes of persons who shall have the right to receive notices of, and participate in, hearings under this section.

(20) At no time shall a land area be designated an area of critical state concern if the effect of such designation would be to subject more than 5 percent of the land of the state to supervision under this section; except that, if any supervision by the state is retained, the area shall be considered to be included within the limitations of this subsection. If 5 percent of the lands of the state are designated as areas of critical state concern pursuant to this section, a redesignation pursuant to paragraph (1)(d) will not be prohibited by this subsection.

(21) Within 30 days after the effective date of the designation of an area of critical state concern pursuant to paragraph (1)(c) or paragraph (1)(d), the state land planning agency shall record a legal description of the boundaries of the area of critical state concern in the public records of the county or counties in which the area of critical state concern is located.

(22) All state agencies with rulemaking authority for programs that affect a designated area of critical state concern shall review those programs for consistency with the purpose of the designation and principles for guiding development, and shall adopt specific permitting standards and criteria applicable in the designated area, or otherwise amend the program, as necessary to further the purpose of the designation.

(a)1. Within 6 months after the effective date of the rule or statute that designates an area of critical state concern, and at any time thereafter as directed by the Administration Commission, the Department of Environmental Protection, the Department of Health, the water management districts with jurisdiction over any portion of the area of critical state concern, and any other state agency specified in the designation rule, shall each submit a report to the Administration Commission, and a copy of the report to the state land planning agency. The report shall evaluate the effect of the reporting agency's programs upon the purpose of the designation.

2. If different permitting standards or criteria, or other changes to the program, are necessary in order to further the purpose of the designation, the report shall recommend rules which further that purpose and which are consistent with the principles for guiding development. The report shall explain and justify the reasons for any different permitting standards or criteria that may be recommended. The commission shall reject the agency's recommendation, or accept it with or without modification and direct the agency to adopt rules, including any changes. Any rule adopted pursuant to this paragraph shall be consistent with the principles for guiding development, and shall apply only within the boundary of the designated area. The agency shall file a copy of the adopted rule with the Administration Commission and the state land planning agency.

3. If statutory changes are required in order to implement the permitting standards or criteria that are necessary to further the purpose of the designation, the report shall recommend statutory amendments. The Administration

Commission shall submit any report that recommends statutory amendments to the President of the Senate and the Speaker of the House of Representatives, together with the Administration Commission's recommendation on the proposed amendments.

(b) The Administration Commission has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this subsection.

History.—s. 5, ch. 72-317; s. 1, ch. 74-326; s. 1, ch. 76-190; s. 4, ch. 79-73; s. 235, ch. 81-259; s. 3, ch. 83-308; s. 2, ch. 84-281; s. 50, ch. 93-206; s. 340, ch. 94-356; s. 1027, ch. 95-148; s. 113, ch. 96-410; s. 5, ch. 97-253; s. 92, ch. 98-200; s. 27, ch. 99-5; s. 71, ch. 99-8; s. 16, ch. 2008-240; s. 39, ch. 2013-14; s. 41, ch. 2016-233.

380.051 Coordinated agency review; Florida Keys area.—

(1)(a) In order to facilitate the planning and preparation of permit applications for projects in the Florida Keys area of critical state concern, and in order to coordinate the information required to issue such permits, a developer may elect to request coordinated agency review under this section at the time of application for a development permit subject to s. 380.05.

(b) "Coordinated agency review" means review of the proposed location, densities, intensity of use, character, major design features, and environmental impacts of a proposed development in the Florida Keys area of critical state concern required to undergo review under s. 380.05 for the purposes of considering whether these aspects of the proposed development comply with the certifying agency's statutes and rules.

(2)(a) If a developer chooses to seek review under this section, the developer shall complete a coordinated review application and the state land planning agency shall distribute copies of the application to participating agencies. Each state and regional agency with jurisdiction over the project shall certify, within 60 days of receipt of such application, whether the project is consistent with agency statutes and rules.

(b) The Department of Environmental Protection, the Department of Health, and other state and regional agencies that require permits in the Florida Keys area of critical state concern shall, within 180 days after the effective date of this act, enter into interagency agreements with the state land planning agency to establish a set of procedures necessary for coordinated agency review created pursuant to this section. Such procedures shall be consistent with paragraph (a).

(c) State and regional agencies shall enter into intergovernmental agreements with local governments in the Florida Keys area of critical state concern to coordinate their permit review, including delegation of review authority to local governments, where applicable, to ensure that state and regional agency decisions are reached in coordination with the local government decision on the local government order.

(3) State and regional agencies shall coordinate with local governments and, when possible, federal permitting agencies to standardize, to the extent possible, review procedures, data requirements, and data collection methodologies among all participating agencies operating in the Florida Keys area of critical state concern consistent with the requirements of the statutes for permitting programs for each agency.

(4) State and regional agencies may adopt rules to implement the procedures for coordinated agency review under this section.

History.—s. 5, ch. 86-170; s. 341, ch. 94-356; s. 6, ch. 97-253; s. 1, ch. 2000-283.

380.055 Big Cypress Area.—

(1) SHORT TITLE.—This section shall be known and may be cited as "The Big Cypress Conservation Act of 1973."

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to conserve and protect the natural resources and scenic beauty of the Big Cypress Area of Florida. It is the finding of the Legislature that the Big Cypress Area is an area containing and having a significant impact upon environmental and natural resources of regional and statewide importance and that designation of the area as an area of critical state concern is desirable and necessary to accomplish the purposes of "The Florida Environmental Land and Water Management Act of 1972" and to implement s. 7, Art. II of the State Constitution.

(3) DESIGNATION AS AREA OF CRITICAL STATE CONCERN.—The "Big Cypress Area," as defined in this subsection, is hereby designated as an area of critical state concern. "Big Cypress Area" means the area generally

depicted on the map entitled "Boundary Map, Big Cypress National Freshwater Reserve, Florida," numbered BC-91,001 and dated November 1971, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior, Washington, D.C., and in the office of the Board of Trustees of the Internal Improvement Trust Fund, which is the area proposed as the Federal Big Cypress National Freshwater Reserve, Florida, and that area described as follows: Sections 1, 2, 11, 12 and 13 in Township 49 South, Range 31 East; and Township 49 South, Range 32 East, less Sections 19, 30 and 31; and Township 49 South, Range 33 East; and Township 49 South, Range 34 East; and Sections 1 through 5 and 10 through 14 in Township 50 South, Range 32 East; and Sections 1 through 18 and 20 through 25 in Township 50 South, Range 33 East; and Township 50 South, Range 34 East, less Section 31; and Sections 1 and 2 in Township 51 South, Range 34 East; All in Collier County, Florida, which described area shall be known as the "Big Cypress National Preserve Addition, Florida," together with such contiguous land and water areas as are ecologically linked with the Everglades National Park, certain of the estuarine fisheries of South Florida, or the freshwater aquifer of South Florida, the definitive boundaries of which shall be set in the following manner: Within 120 days following the effective date of this act, the state land planning agency shall recommend definitive boundaries for the Big Cypress Area to the Administration Commission, after giving notice to all local governments and regional planning agencies which include within their boundaries any part of the area proposed to be included in the Big Cypress Area and holding such hearings as the state land planning agency deems appropriate. Within 45 days following receipt of the recommended boundaries, the Administration Commission shall adopt, modify, or reject the recommendation and shall by rule establish the boundaries of the area defined as the Big Cypress Area.

(4) ADOPTION OF LAND DEVELOPMENT REGULATIONS.—The provisions of s. 380.05(5)-(11), (17), and (20) shall not apply to the Big Cypress Area. All other provisions of this chapter shall apply to the Big Cypress Area. Any provision of this chapter to the contrary notwithstanding, the state land planning agency has the right, and its duty shall be, to submit recommended land development regulations applicable to the Big Cypress Area to the Administration Commission concurrent with the boundaries recommended pursuant to subsection (3). The Administration Commission shall either reject the recommendation as tendered or adopt the same by rule with or without modification. The commission shall specify the extent to which regulations adopted pursuant to this section supersede local land development regulations.

(5) ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE.—

(a) It is the intent of the Legislature to provide the means to accomplish an agreement between the State of Florida and the Government of the United States, whereby the state will contribute toward the cost of a program of acquisition of land and water areas and related rights and interests within the area proposed as the Federal Big Cypress National Preserve, Florida. It is the intent of the Legislature that the Board of Trustees of the Internal Improvement Trust Fund begin immediately an acquisition program within the area proposed as the Federal Big Cypress National Preserve, Florida, on behalf of the state pending action by the Government of the United States in the Big Cypress Area.

(b) The Board of Trustees of the Internal Improvement Trust Fund shall set aside from the proceeds of the full faith and credit bonds authorized by the Land Conservation Program, or from other funds authorized, appropriated, or allocated for the acquisition of environmentally endangered lands, or from both sources, $40 million for acquisition of the area proposed as the Federal Big Cypress National Preserve, Florida, or portions thereof.

(c) The Board of Trustees of the Internal Improvement Trust Fund is empowered to acquire land and water areas within the Federal Big Cypress National Preserve, Florida, created by Pub. L. No. 93-440, in order to conserve and protect the natural resources and scenic beauty therein and to donate and convey title in land and water areas so acquired or currently owned by the state to the Government of the United States or its agency upon the expenditure by the United States of an amount of federal funds at least equal to the acquisition cost of the land and water areas donated by the state. The intent of this condition for the donation of land and water areas by the state is to ensure that the investment of federal funds in the acquisition of land and water areas for the Big Cypress National Preserve will be not less than the investment of state funds in the land and water areas so donated. In making such acquisitions, the Board of Trustees of the Internal Improvement Trust Fund shall give priority to those land and water areas within the area proposed as the Federal Big Cypress National Preserve, Florida, which are essential to the integrity of the

environment, the destruction of which would cause irreparable damage to the Everglades National Park, the estuarine fisheries of South Florida, or the underlying freshwater aquifer.

(6) FUNCTION OF WATER MANAGEMENT DISTRICT.—It is the finding of the Legislature that the Big Cypress Area, as a water storage and recharge area, is an integral part of the water resources of any water management district of which the Big Cypress Area is or may be a part. It is the legislative intent that there be close cooperation and coordination of efforts between the water management district and the Department of Environmental Protection in carrying out the intent and purposes of this section. The secretary is authorized to delegate to the water management district, or to a board therein, any power authorized in this section to be exercised by the department, and the district or basin is authorized to accept the powers delegated to it and shall have the power and duty to carry out the intent and purposes of this section to the fullest extent possible within its capabilities and resources.

(7) EMINENT DOMAIN WITHIN BIG CYPRESS AREA AND BIG CYPRESS NATIONAL PRESERVE ADDITION. —The Board of Trustees of the Internal Improvement Trust Fund is empowered and authorized to acquire by the exercise of the power of eminent domain any land or water areas and related resources and property, and any and all rights, title, and interest in such land or water areas and related resources and other property, lying within the boundaries of the Big Cypress Area and Big Cypress National Preserve Addition. The Legislature finds that the exercise of the power of eminent domain within the Big Cypress Area and Big Cypress National Preserve Addition to accomplish the purposes of this section is necessary and for a public purpose.

(8) INDIAN RIGHTS.—Notwithstanding any provision of this section to the contrary, members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida may continue their usual and customary use and occupancy of lands and waters within the Big Cypress Area, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials. Nothing in this section shall be construed to deny or impair, or authorize the denial or impairment, of any rights granted by or pursuant to chapter 285 relative to Indian reservation and affairs, and the lands of the Seminole Tribe of Florida and of the Miccosukee Tribe of Indians of Florida, as described in s. 285.061(1), shall be excluded from the Big Cypress Area as defined in this section.

(9) ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE ADDITION.—

(a) It is the intent of the Legislature to provide the means to accomplish an agreement between the State of Florida and the Government of the United States whereby the state will contribute toward the cost of a program of acquisition of land and water areas and related rights and interests within the area proposed as the Federal Big Cypress National Preserve Addition, Florida. It is the intent of the Legislature that the Governor and the Cabinet begin an acquisition program within the area designated as the Big Cypress National Preserve Addition on behalf of the state pending action by the Government of the United States in the Big Cypress Area.

(b) The Governor and Cabinet are empowered to acquire land and water areas within the Federal Big Cypress National Preserve Addition, in order to conserve and protect the natural resources and scenic beauty therein and to donate and convey title in land and water areas so acquired or currently owned by the state to the Government of the United States or its agency upon the expenditure by the United States of an amount of federal funds sufficient to pay the remaining 80 percent of the cost of acquiring such lands. The intent of this condition for the donation of land and water areas by the state is to ensure that the investment of federal funds in the acquisition of land and water areas for the Big Cypress National Preserve Addition will amount to 80 percent of the cost thereof and the state's investment shall amount to 20 percent of such costs in total. In making such acquisitions, the Governor and Cabinet shall give priority to those land and water areas within the area proposed as the Federal Big Cypress National Preserve Addition, Florida, which are essential to the integrity of the environment, the destruction of which would cause irreparable damage to the Everglades National Park, the Big Cypress National Preserve, the estuarine fisheries of South Florida, or the underlying freshwater aquifer.

(10) ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE AND ADDITION BY ALTERNATE METHODS.— For purposes of acquisition in the Big Cypress Area and Big Cypress National Preserve Addition, the acquisition procedures provided in chapter 337 may be utilized in lieu of chapter 253 where appropriate. The Board of Trustees of the Internal Improvement Trust Fund is authorized to enter into an interagency agreement with the Department of Transportation wherein the Department of Transportation may acquire lands in the Big Cypress Area and Big Cypress National Preserve Addition on behalf of the board of trustees and be reimbursed therefor in a share proportionate to

the value of the interest acquired. Such acquired property shall be titled in the name of the Board of Trustees of the Internal Improvement Trust Fund, except that the Department of Transportation shall retain title to that portion of the property needed for highway right-of-way.

History.—ss. 1, 2, 3, 4, 5, ch. 73-131; s. 1, ch. 75-175; s. 4, ch. 78-95; s. 89, ch. 79-164; s. 236, ch. 81-259; s. 1, ch. 85-346; s. 64, ch. 86-186; s. 31, ch. 87-225; s. 342, ch. 94-356; s. 42, ch. 2016-233.

380.0551 Green Swamp Area; designation as area of critical state concern.—

(1) The Green Swamp Area, the boundaries of which are described in [1]chapter 22F-5, Florida Administrative Code, is hereby designated an area of critical state concern effective July 1, 1979. The state land planning agency, in conjunction with the applicable local governments, shall review suggested changes to the existing boundary in the area immediately to the south of the southern boundary of the City of Clermont in Lake County and the area along the existing southern boundary around Lake Juliana and the City of Polk City in Polk County for possible deletion from the area of critical state concern. The state land planning agency shall report to, and shall make specific recommendations to, the commission relative to any proposed deletion by August 1, 1979. The commission shall take action on the recommendations of the state planning agency no later than October 1, 1979. [1]Chapters 22F-5, 22F-6, and 22F-7, Florida Administrative Code, are hereby adopted and incorporated herein by reference. The boundaries described in [1]chapter 22F-5, Florida Administrative Code, shall be modified pursuant to s. 380.05(12). There shall be appointed a resource planning and management committee as provided in s. 380.045.

(2) The land development regulations contained in [1]chapters 22F-6 and 22F-7, Florida Administrative Code, shall be the land development regulations for the applicable local government's portion of the area of critical state concern until either:

(a) An applicable local government complies with the provisions of s. 380.05(10); or

(b) Such regulations are repealed pursuant to subsection (3).

(3) [1]Chapters 22F-5, 22F-6, and 22F-7, Florida Administrative Code, shall be repealed by the commission no earlier than July 1, 1980, and no later than July 1, 1982. Upon recommendation by the state land planning agency to the commission, any repeal of such rules pursuant to this subsection may be effective only for one local government's portion of the Green Swamp Area. Such repeal shall be contingent upon approval by the state land planning agency of local land development regulations pursuant to s. 380.05(6) or (10), upon such regulations being effective for a period of 12 months, and upon adoption or modification by the applicable local government of a local government comprehensive plan pursuant to s. 380.05(14).

History.—s. 5, ch. 79-73.

[1]**Note.**— The provisions of former chapters 22F-5, 22F-6, and 22F-7 have been transferred to other sections of the Florida Administrative Code.

[1]**380.0552 Florida Keys Area; protection and designation as area of critical state concern.—**

(1) SHORT TITLE.—This section may be cited as the "Florida Keys Area Protection Act."

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(a) Establish a land use management system that protects the natural environment of the Florida Keys.

(b) Establish a land use management system that conserves and promotes the community character of the Florida Keys.

(c) Establish a land use management system that promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services.

(d) Provide affordable housing in close proximity to places of employment in the Florida Keys.

(e) Establish a land use management system that promotes and supports a diverse and sound economic base.

(f) Protect the constitutional rights of property owners to own, use, and dispose of their real property.

(g) Promote coordination and efficiency among governmental agencies that have permitting jurisdiction over land use activities in the Florida Keys.

(h) Promote an appropriate land acquisition and protection strategy for environmentally sensitive lands within the Florida Keys.

(i) Protect and improve the nearshore water quality of the Florida Keys through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable.

(j) Ensure that the population of the Florida Keys can be safely evacuated.

(3) RATIFICATION OF DESIGNATION.—The designation of the Florida Keys Area as an area of critical state concern, the boundaries of which are described in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, is hereby ratified.

(4) REMOVAL OF DESIGNATION.—

(a) The designation of the Florida Keys Area as an area of critical state concern under this section may be recommended for removal upon fulfilling the legislative intent under subsection (2) and completion of all the work program tasks specified in rules of the Administration Commission.

(b) Beginning November 30, 2010, the state land planning agency shall annually submit a written report to the Administration Commission describing the progress of the Florida Keys Area toward completing the work program tasks specified in commission rules. The land planning agency shall recommend removing the Florida Keys Area from being designated as an area of critical state concern to the commission if it determines that:

1. All of the work program tasks have been completed, including construction of, operation of, and connection to central wastewater management facilities pursuant to s. 403.086(10) and upgrade of onsite sewage treatment and disposal systems pursuant to s. 381.0065(4)(l);

2. All local comprehensive plans and land development regulations and the administration of such plans and regulations are adequate to protect the Florida Keys Area, fulfill the legislative intent specified in subsection (2), and are consistent with and further the principles guiding development; and

3. A local government has adopted a resolution at a public hearing recommending the removal of the designation.

(c) After receipt of the state land planning agency report and recommendation, the Administration Commission shall determine whether the requirements have been fulfilled and may remove the designation of the Florida Keys as an area of critical state concern. If the commission removes the designation, it shall initiate rulemaking to repeal any rules relating to such designation within 60 days. If, after receipt of the state land planning agency's report and recommendation, the commission finds that the requirements for recommending removal of designation have not been met, the commission shall provide a written report to the local governments within 30 days after making such a finding detailing the tasks that must be completed by the local government.

(d) The Administration Commission's determination concerning the removal of the designation of the Florida Keys as an area of critical state concern may be reviewed pursuant to chapter 120. All proceedings shall be conducted by the Division of Administrative Hearings and must be initiated within 30 days after the commission issues its determination.

(e) After removal of the designation of the Florida Keys as an area of critical state concern, the state land planning agency shall review proposed local comprehensive plans, and any amendments to existing comprehensive plans, which are applicable to the Florida Keys Area, the boundaries of which were described in chapter 28-29, Florida Administrative Code, as of January 1, 2006, for compliance as defined in s. 163.3184. All procedures and penalties described in s. 163.3184 apply to the review conducted pursuant to this paragraph.

(f) The Administration Commission may adopt rules or revise existing rules as necessary to administer this subsection.

(5) APPLICATION OF THIS CHAPTER.—Section 380.05(1)-(5), (9)-(11), (15), (17), and (21) shall not apply to the area designated by this section for so long as the designation remains in effect. Except as otherwise provided in this section, s. 380.045 shall not apply to the area designated by this section. All other provisions of this chapter shall apply, including s. 380.07.

(6) RESOURCE PLANNING AND MANAGEMENT COMMITTEE.—The Governor, acting as the chief planning officer of the state, shall appoint a resource planning and management committee for the Florida Keys Area with the

membership as specified in s. 380.045(2). Meetings shall be called as needed by the chair or on the demand of three or more members of the committee. The committee shall:

(a) Serve as a liaison between the state and local governments within Monroe County.

(b) Develop, with local government officials in the Florida Keys Area, recommendations to the state land planning agency as to the sufficiency of the Florida Keys Area's comprehensive plan and land development regulations.

(c) Recommend to the state land planning agency changes to state and regional plans and regulatory programs affecting the Florida Keys Area.

(d) Assist units of local government within the Florida Keys Area in carrying out the planning functions and other responsibilities required by this section.

(e) Review, at a minimum, all reports and other materials provided to it by the state land planning agency or other governmental agencies.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.

(b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.

(c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.

(d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.

(e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.

(f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.

(g) Protecting the historical heritage of the Florida Keys.

(h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities;
2. Sewage collection, treatment, and disposal facilities;
3. Solid waste treatment, collection, and disposal facilities;
4. Key West Naval Air Station and other military facilities;
5. Transportation facilities;
6. Federal parks, wildlife refuges, and marine sanctuaries;
7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
8. City electric service and the Florida Keys Electric Co-op; and
9. Other utilities, as appropriate.

(i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; the installation and proper operation and maintenance of onsite sewage treatment and disposal systems; and other water quality and water supply projects, including direct and indirect potable reuse.

(j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.

(k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.

(l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.

(m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan.

(n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

(8) COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT REGULATIONS.—The comprehensive plan elements and land development regulations approved pursuant to s. 380.05(6), (8), and (14) shall be the comprehensive plan elements and land development regulations for the Florida Keys Area.

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(10) for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal systems.

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency.

(b) The state land planning agency, after consulting with the appropriate local government, may, no more than once per year, recommend to the Administration Commission the enactment, amendment, or rescission of a land development regulation or element of a local comprehensive plan. Within 45 days following the receipt of such recommendation, the commission shall reject the recommendation, or accept it with or without modification and adopt it by rule, including any changes. Such local development regulation or plan must be in compliance with the principles for guiding development.

History.—s. 6, ch. 79-73; s. 4, ch. 86-170; s. 1, ch. 89-342; s. 641, ch. 95-148; s. 3, ch. 2006-223; s. 34, ch. 2010-205; s. 26, ch. 2011-4; s. 7, ch. 2016-225.

[1]**Note.**—Section 7, ch. 2006-223, provides that "[i]f the designation of the Florida Keys Area as an area of critical state concern is removed, the state shall be liable in any inverse condemnation action initiated as a result of Monroe County land use regulations applicable to the Florida Keys Area as described in chapter 28-29, Florida Administrative Code, and adopted pursuant to instructions from the Administration Commission or pursuant to administrative rule of the Administration Commission, to the same extent that the state was liable on the date the Administration Commission determined that substantial progress had been made toward accomplishing the tasks of the work program as defined in s. 380.0552(4)(c), Florida Statutes. If, after the designation of the Florida Keys Area as an area of critical state concern is removed, an inverse condemnation action is initiated based upon land use regulations that were not adopted pursuant to instructions from the Administration Commission or pursuant to administrative rule of the Administration Commission and in effect on the date of the designation's removal, the state's liability in the inverse condemnation action shall be determined by the courts in the manner in which the state's liability is determined in areas that are not areas of critical state concern. The state shall have standing to appear in any inverse condemnation action."

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

(1) SHORT TITLE.—This act shall be known and cited as the "Apalachicola Bay Area Protection Act."

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

(a) To protect the water quality of the Apalachicola Bay Area to ensure a healthy environment and a thriving economy for the residents of the area and the state.

(b) To financially assist Franklin County and its municipalities in upgrading and expanding their sewerage systems.

(c) To protect the Apalachicola Bay Area's natural and economic resources by implementing and enforcing comprehensive plans and land development regulations.

(d) To assist Franklin County and its municipalities with technical and advisory assistance in formulating additional land development regulations and modifications to comprehensive plans.

(e) To monitor activities within the Apalachicola Bay Area to ensure the long-term protection of all the area's resources.

(f) To promote a broad base of economic growth which is compatible with the protection and conservation of the natural resources of the Apalachicola Bay Area.

(g) To educate the residents of the Apalachicola Bay Area in order to protect and preserve its natural resources.

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

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

(3) DESIGNATION.—Franklin County, as described in s. 7.19, less all federally owned lands, less all lands lying east of the line formed by the eastern boundary of State Road 319 running from the Ochlockonee River to the intersection of State Road 319 and State Road 98 and thence due south to the Gulf of Mexico, and less any lands removed under subsection (4), is hereby designated an area of critical state concern on June 18, 1985. State road, for the purpose of this section, shall be defined as in s. 334.03. For the purposes of this act, this area shall be known as the Apalachicola Bay Area.

(4) REMOVAL OF DESIGNATION.—The state land planning agency may recommend to the Administration Commission the removal of the designation from all or part of the area specified in subsection (3), if it determines that all local land development regulations and local comprehensive plans and the administration of such regulations and plans are adequate to protect the Apalachicola Bay Area, continue to carry out the legislative intent set forth in subsection (2), and are in compliance with the principles for guiding development set forth in subsection (7). If the Administration Commission concurs with the recommendations of the state land planning agency to remove any area from the designation, it shall, within 45 days after receipt of the recommendation, initiate rulemaking to remove the designation. The state land planning agency shall make recommendations to the Administration Commission annually.

(5) APPLICATION OF CHAPTER 380 PROVISIONS.—Section 380.05(1)-(5), (8), (9), (12), (15), (17), and (21), shall not apply to the area designated by this act for so long as the designation remains in effect. Except as otherwise provided in this act, s. 380.045 shall not apply to the area designated by this act. All other provisions of this chapter shall apply, including ss. 380.07 and 380.11, except that the "local development regulations" in s. 380.05(13) shall include the regulations set forth in subsection (8) for purposes of s. 380.05(13), and the plan or plans submitted pursuant to s. 380.05(14) shall be submitted no later than February 1, 1986. All or part of the area designated by this act may be redesignated pursuant to s. 380.05 as if it had been initially designated pursuant to that section.

(6) VESTED RIGHTS OF DEVELOPER.—If a developer has by his or her actions in reliance on prior regulations obtained vested or other legal rights including rights obtained by approval of a development of regional impact or a substantial deviation thereof pursuant to s. 380.06 that would have prevented a local government from changing those regulations in a way adverse to the developer's interests, nothing in this act authorizes any governmental agency to abridge those rights.

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Apalachicola Bay Area shall coordinate their plans and conduct their programs and regulatory activities consistently with the following principles for guiding the development of the area:

(a) Land development shall be guided so that the basic functions and productivity of the Apalachicola Bay Area's natural land and water systems will be conserved to reduce or avoid health, safety, and economic problems for present

and future residents of the Apalachicola Bay Area.

(b) Land development shall be consistent with a safe environment, adequate community facilities, a superior quality of life, and a desire to minimize environmental hazards.

(c) Growth and diversification of the local economy shall be fostered only if it is consistent with protecting the natural resources of the Apalachicola Bay Area through appropriate management of the land and water systems.

(d) Aquatic habitats and wildlife resources of the Apalachicola Bay Area shall be conserved and protected.

(e) Water quantity shall be managed to conserve and protect the natural resources and the scenic beauty of the Apalachicola Bay Area.

(f) The quality of water shall be protected, maintained, and improved for public water supplies, the propagation of aquatic life, and recreational and other uses which are consistent with these uses.

(g) No wastes shall be discharged into any waters of the Apalachicola Bay Area without first being given the degree of treatment necessary to protect the water uses as set forth in paragraph (f).

(h) Stormwater discharges shall be managed in order to minimize their impacts on the bay system and protect the uses as set forth in paragraph (f).

(i) Coastal dune systems, specifically the area extending landward from the extreme high-tide line to the beginning of the pinelands of the Apalachicola Bay Area, shall be protected.

(j) Public lands shall be managed, enhanced, and protected so that the public may continue to enjoy the traditional use of such lands.

(8) COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT REGULATIONS.—

(a) *Local governments to administer plan elements and regulations.*—The following comprehensive plan elements and land development regulations shall be administered by local governments within their jurisdiction in the Apalachicola Bay Area, as part of their local comprehensive plan and land development regulations. If a local government within the Apalachicola Bay Area has a provision in its local comprehensive plan or its land development regulations which conflicts with a provision of this paragraph or has no comparable provision, the provision of this paragraph shall control.

1. Comprehensive plan.—Chapter 1 of Volume I, and chapters 4, 5, 7, and 9 of Volume II of the Franklin County Comprehensive Land Use Plan adopted by Ordinance No. 81-4 on June 22, 1981, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 30, 1981, are incorporated by reference and adopted herein.

2. Zoning ordinances.—Ordinance No. 81-5 adopted June 22, 1981, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 30, 1981, and the following amendments are incorporated by reference and adopted herein:

a. Ordinance 82-4, adopted June 18, 1982, and filed with the Secretary of State on July 28, 1982.

b. Ordinance 83-4, adopted July 19, 1983, and filed with the Secretary of State on July 25, 1983.

c. Ordinance 83-7, adopted October 4, 1983, and filed with the Secretary of State on October 6, 1983.

d. Ordinance 84-2, adopted April 24, 1984, and filed with the Secretary of State on April 27, 1984.

3. Subdivision regulations.—Ordinance No. 74-1 adopted November 15, 1974, by the Franklin County Board of County Commissioners and filed with the Secretary of State on December 4, 1974, and December 5, 1974, and the following amendment are incorporated by reference and adopted herein: Ordinance 79-5, filed with the Secretary of State on May 30, 1979.

4. Flood plain management ordinance.—Ordinance No. 83-5 adopted on July 7, 1983, by the Franklin County Board of County Commissioners and filed with the Secretary of State on July 15, 1983, is incorporated by reference and adopted herein.

5. Septic tank ordinance.—Ordinance 79-8 adopted on June 22, 1979, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 27, 1979, is incorporated by reference and adopted herein.

6. Construction; electrical connection.—Ordinance No. 73-5A adopted July 3, 1973, by the Franklin County Board of County Commissioners and filed with the Secretary of State on March 6, 1981, is incorporated by reference and adopted herein.

7. Alligator Point Water Resource District Act.—Ordinance No. 76-7 adopted on November 16, 1976, by the Franklin County Board of County Commissioners and filed with the Secretary of State on March 6, 1981, is incorporated by reference and adopted herein.

8. Coastal area building codes.—Ordinance No. 84-1 establishing building codes for coastal areas adopted by the Franklin County Board of County Commissioners on February 8, 1984, and filed with the Secretary of State on February 2, 1984, is incorporated by reference and adopted herein.

9. Standard building code.—Ordinance adopting the 1976 Standard Building Code, Ordinance No. 83-1, adopted January 18, 1983, by the Franklin County Board of County Commissioners and filed with the Secretary of State January 20, 1983, is incorporated by reference and adopted herein.

10. Local planning agency.—Ordinance No. 77-6 adopted on June 21, 1977, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 22, 1977, is incorporated by reference and adopted herein.

11. Coastal high-hazard zones.—Ordinance No. 80-5 adopted on May 29, 1980, by the Franklin County Board of County Commissioners and filed with the Secretary of State on May 30, 1980, is incorporated by reference and adopted herein.

(b) *Conflicting regulations.*—In the event of any inconsistency between subparagraph (a)1. and subparagraphs (a)2.-11., subparagraph (a)1. shall control. Further, in the event of any inconsistency between subsection (7) and paragraph (a) of this subsection and a development order issued pursuant to s. 380.06, which has become final prior to June 18, 1985, or between subsection (7) and paragraph (a) and an amendment to a final development order, which amendment has been requested prior to April 2, 1985, the development order or amendment thereto shall control. However, any modification to paragraph (a) enacted by a local government and approved by the state land planning agency pursuant to subsection (9) may provide whether it shall control over an inconsistent provision of a development order or amendment thereto. A development order or any amendment thereto referred to in this paragraph shall not be subject to approval by the state land planning agency pursuant to subsection (9).

(c) *Effect of existing plans and regulations.*—Legally adopted comprehensive plans and land development regulations other than those listed in this subsection shall remain in full force and effect unless inconsistent with the principles for guiding development set forth in subsection (7), the elements of the comprehensive plan listed in this subsection, or the land development regulations listed in this subsection.

(d) *Developments of regional impact.*—A local government shall approve a development subject to the provisions of s. 380.06 only if it also complies with the provisions of this subsection.

(9) MODIFICATION TO PLANS AND REGULATIONS.—Any land development regulation or element of a local comprehensive plan in the Apalachicola Bay Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon the approval thereof by the state land planning agency. The state land planning agency shall review the proposed change to determine if it complies with the principles for guiding development specified in subsection (7) and must approve or reject the requested change as provided in s. 380.05. Further, the state land planning agency, after consulting with the appropriate local government, may, from time to time, recommend the enactment, amendment, or rescission of a land development regulation or element of a comprehensive plan. Within 45 days following the receipt of such recommendation by the state land planning agency or enactment, amendment, or rescission by a local government the commission shall reject the recommendation, enactment, amendment, or rescission or accept it with or without modification and adopt, by rule, any changes. Any such local land development regulation or comprehensive plan or part of such regulation or plan may be adopted by the commission if it finds that it is in compliance with the principles for guiding development.

(10) REQUIREMENTS; LOCAL GOVERNMENTS.—

(a) As used in this subsection:

1. "Alternative onsite system" means any approved onsite disposal system used in lieu of a standard subsurface system.

2. "Critical shoreline zone" means all land within a distance of 150 feet landward of the mean high-water line in tidal areas, the ordinary high-water line in nontidal areas, or the inland wetland areas existing along the streams, lakes, rivers, bays, and sounds within the Apalachicola Bay Area.

3. “Pollution-sensitive segment of the critical shoreline” means an area which, due to its proximity to highly sensitive resources, including, but not limited to, productive shellfish beds and nursery areas, requires special regulatory attention.

4. “Low-income family” means a group of persons residing together whose combined income does not exceed 200 percent of the 1985 Poverty Income Guidelines for all states and the District of Columbia, promulgated by the United States Department of Health and Human Services, as published in Volume 50, No. 46 of the Federal Register, pages 9517-18. Income shall be as defined in said guidelines.

(b) Franklin County and the municipalities within it shall, within 60 days after a sewerage system is available for use, notify all owners and users of onsite sewage disposal systems of the availability of such a system and that connection is required within 180 days of the notice. Failure to connect to an available system within the time prescribed shall be a misdemeanor of the second degree, punishable as provided in ss. 775.082 and 775.083. Further, Franklin County and the municipalities within it shall have the right to make the connection if it is not made within the prescribed time and to assess the owner of the real property on which the connection is made for the cost of such connection. Such assessments shall be levied according to law and shall become a lien against the real property, enforced according to law. Franklin County and the municipalities within it shall develop a program and implement ordinances to make available to low-income families the sewer services available upon completion of the proposed sewer projects being funded by this act.

(c)1. The Department of Health shall survey all septic tank soil-absorption systems in the Apalachicola Bay Area to determine their suitability as onsite sewage treatment systems. Within 6 months from June 18, 1985, Franklin County and the municipalities within it, after consultation with the Department of Health and the Department of Environmental Protection, shall develop a program designed to correct any onsite sewage treatment systems that might endanger the water quality of the bay.

2. Franklin County and the municipalities within it shall, within 9 months from June 18, 1985, enact by ordinance procedures implementing this program. These procedures shall include notification to owners of unacceptable septic tanks and procedures for correcting unacceptable septic tanks. These ordinances shall not be effective until approved by the Department of Health and the Department of Environmental Protection.

(d) Franklin County and the municipalities within it shall, within 12 months from June 18, 1985, establish by ordinance a map of “pollution-sensitive segments of the critical shoreline” within the Apalachicola Bay Area, which ordinance shall not be effective until approved by the Department of Health and the Department of Environmental Protection. Franklin County and the municipalities within it, after the effective date of these ordinances, shall no longer grant permits for onsite wastewater disposal systems in pollution-sensitive segments of the critical shoreline, except for those onsite wastewater systems that will not degrade water quality in the river or bay. These ordinances shall not become effective until approved by the resource planning and management committee. Until such ordinances become effective, the Franklin County Health Department shall not give a favorable recommendation to the granting of a septic tank variance pursuant to section (1) of Ordinance 79-8, adopted on June 22, 1979, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 27, 1979, or issue a permit for a septic tank or alternative waste disposal system pursuant to Ordinance 81-5, adopted on June 22, 1981, by the Franklin County Board of County Commissioners and filed with the Secretary of State on June 30, 1981, as amended as set forth in subparagraph (8)(a)2., unless the Franklin County Health Department certifies, in writing, that the use of such system will be consistent with paragraph (7)(f) and subsection (8).

(e) Franklin County and the municipalities within it shall, within 9 months from June 18, 1985, enact land development regulations to protect the Apalachicola Bay Area from stormwater pollution, including provisions for development approval, before the issuance of building permits pursuant to chapter 17-25, Florida Administrative Code, Franklin County and the municipalities within it shall, within 90 days following the above deadline, survey existing stormwater management systems and discharges to determine their effect on the bay and develop a comprehensive stormwater management plan to minimize such effects. The plan will include recommendations and financing options for the retrofitting of existing systems. Franklin County and the municipalities within it shall, as part of an overall stormwater management program, inform its citizens about stormwater, its relationship to land use, and its effect upon the resources of the Apalachicola Bay Area.

(f) Franklin County and the municipalities within it shall, beginning 12 months from June 18, 1985, prepare semiannual reports on the implementation of paragraphs (b)-(e) on the environmental status of the Apalachicola Bay Area. The state land planning agency may prescribe additional detailed information required to be reported. Each report shall be delivered to the resource planning and management committee and the state land planning agency for review and recommendations. The state land planning agency shall review each report and consider such reports when making recommendations to the Administration Commission pursuant to subsection (9).

History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, ch. 85-360; s. 1, ch. 93-135; s. 51, ch. 93-206; s. 343, ch. 94-356; s. 1028, ch. 95-148; s. 57, ch. 96-321; s. 31, ch. 98-176; s. 72, ch. 99-8; s. 185, ch. 99-13; s. 15, ch. 2001-62; s. 6, ch. 2016-148; s. 5, ch. 2018-159.

380.06 Developments of regional impact.—

(1) DEFINITION.—The term "development of regional impact," as used in this section, means any development that, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.

(2) STATEWIDE GUIDELINES AND STANDARDS.—The statewide guidelines and standards and the exemptions specified in s. 380.0651 and the statewide guidelines and standards adopted by the Administration Commission and codified in chapter 28-24, Florida Administrative Code, must be used in determining whether particular developments are subject to the requirements of subsection (12). The statewide guidelines and standards previously adopted by the Administration Commission and approved by the Legislature shall remain in effect unless superseded or repealed by statute. The statewide guidelines and standards shall be applied as follows:

(a) A development that is below 100 percent of all numerical thresholds in the statewide guidelines and standards is not subject to subsection (12).

(b) A development that is at or above 100 percent of any numerical threshold in the statewide guidelines and standards is subject to subsection (12).

(3) BINDING LETTER.—

(a) Any binding letter previously issued to a developer by the state land planning agency as to whether his or her proposed development must undergo development-of-regional-impact review, whether his or her rights have vested pursuant to subsection (8), or whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (8) would divest such rights, remains valid unless it expired on or before April 6, 2018.

(b) Upon a request by the developer, a binding letter of interpretation regarding which rights had previously vested in a development of regional impact may be amended by the local government of jurisdiction, based on standards and procedures in the adopted local comprehensive plan or the adopted local land development code, to reflect a change to the plan of development and modification of vested rights, provided that any such amendment to a binding letter of vested rights must be consistent with s. 163.3167(5). Review of a request for an amendment to a binding letter of vested rights may not include a review of the impacts created by previously vested portions of the development.

(c) Every binding letter determining that a proposed development is not a development of regional impact, but not including binding letters of vested rights or of modification of vested rights, shall expire and become void unless the plan of development has been substantially commenced within:

1. Three years from October 1, 1985, for binding letters issued prior to the effective date of this act; or
2. Three years from the date of issuance of binding letters issued on or after October 1, 1985.

(d) The expiration date of a binding letter begins to run after final disposition of all administrative and judicial appeals of the binding letter and may be extended by mutual agreement of the state land planning agency, the local government of jurisdiction, and the developer.

(e) An informal determination by the state land planning agency, in the form of a clearance letter as to whether a development is required to undergo development-of-regional-impact review or whether the amount of development that remains to be built in an approved development of regional impact, remains valid unless it expired on or before April 6, 2018.

(4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(a) Notwithstanding any provision of any adopted local comprehensive plan or adopted local government land development regulation to the contrary, an amendment to a development order for an approved development of regional impact adopted pursuant to subsection (7) may not amend to an earlier date the date until the local government agrees that the approved development of regional impact will not be subject to downzoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the change is clearly established by local government to be essential to the public health, safety, or welfare. The date established pursuant to this paragraph may not be sooner than the buildout date of the project.

(b)1. A local government may not include as a development order condition for a development of regional impact any requirement that a developer contribute or pay for land acquisition or construction or expansion of public facilities or portions thereof unless the local government has enacted a local ordinance which requires other development not subject to this section to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development, and the need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. Selection of a contractor or design professional for any aspect of construction or design related to the construction or expansion of a public facility by a nongovernmental developer which is undertaken as a condition of a development order to mitigate the impacts reasonably attributable to the proposed development is not subject to competitive bidding or competitive negotiation.

(c) Notice of the adoption of an amendment to an adopted development order shall be recorded by the developer, in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state which unit of local government adopted the development order, the date of adoption, the date of adoption of any amendments to the development order, the location where the adopted order with any amendments may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice does not constitute a lien, cloud, or encumbrance on real property, or actual or constructive notice of any such lien, cloud, or encumbrance. This paragraph applies only to developments initially approved under this section after July 1, 1980. If the local government of jurisdiction rescinds a development order for an approved development of regional impact pursuant to s. 380.115, the developer may record notice of the rescission.

(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.

(5) CREDITS AGAINST LOCAL IMPACT FEES.—

(a) Notwithstanding any provision of an adopted local comprehensive plan or adopted local government land development regulations to the contrary, the adoption of an amendment to a development order for an approved development of regional impact pursuant to subsection (7) does not diminish or otherwise alter any credits for a development order exaction or fee as against impact fees, mobility fees, or exactions when such credits are based upon the developer's contribution of land or a public facility or the construction, expansion, or payment for land acquisition or construction or expansion of a public facility, or a portion thereof.

(b) If the local government imposes or increases an impact fee, mobility fee, or exaction by local ordinance after a development order has been issued, the developer may petition the local government, and the local government shall modify the affected provisions of the development order to give the developer credit for any contribution of land for a public facility, or construction, expansion, or contribution of funds for land acquisition or construction or expansion of a public facility, or a portion thereof, required by the development order toward an impact fee or exaction for the same need.

(c) Any capital contribution front-ending agreement entered into by a local government and a developer which is still in effect as of April 6, 2018, as part of a development-of-regional-impact development order to reimburse the

developer, or the developer's successor, for voluntary contributions paid in excess of his or her fair share remains valid.

(d) This subsection does not apply to internal, onsite facilities required by local regulations or to any offsite facilities to the extent that such facilities are necessary to provide safe and adequate services to the development.

(6) REPORTS.—Notwithstanding any condition in a development order for an approved development of regional impact, the developer is not required to submit an annual or a biennial report on the development of regional impact to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies unless required to do so by the local government that has jurisdiction over the development. The penalty for failure to file such a required report is as prescribed by the local government.

(7) CHANGES.—

(a) Notwithstanding any provision to the contrary in any development order, agreement, local comprehensive plan, or local land development regulation, any proposed change to a previously approved development of regional impact shall be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations, including, but not limited to, procedures for notice to the applicant and the public regarding the issuance of development orders. However, a change to a development of regional impact that has the effect of reducing the originally approved height, density, or intensity of the development must be reviewed by the local government based on the standards in the local comprehensive plan at the time the development was originally approved, and if the development would have been consistent with the comprehensive plan in effect when the development was originally approved, the local government may approve the change. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5). For any proposed change to a previously approved development of regional impact, at least one public hearing must be held on the application for change, and any change must be approved by the local governing body before it becomes effective. The review must abide by any prior agreements or other actions vesting the laws and policies governing the development. Development within the previously approved development of regional impact may continue, as approved, during the review in portions of the development which are not directly affected by the proposed change.

(b) The local government shall either adopt an amendment to the development order that approves the application, with or without conditions, or deny the application for the proposed change. Any new conditions in the amendment to the development order issued by the local government may address only those impacts directly created by the proposed change, and must be consistent with s. 163.3180(5), the adopted comprehensive plan, and adopted land development regulations. Changes to a phase date, buildout date, expiration date, or termination date may also extend any required mitigation associated with a phased construction project so that mitigation takes place in the same timeframe relative to the impacts as approved.

(c) This section is not intended to alter or otherwise limit the extension, previously granted by statute, of a commencement, buildout, phase, termination, or expiration date in any development order for an approved development of regional impact and any corresponding modification of a related permit or agreement. Any such extension is not subject to review or modification in any future amendment to a development order pursuant to the adopted local comprehensive plan and adopted local land development regulations.

(8) VESTED RIGHTS.—Nothing in this section shall limit or modify the rights of any person to complete any development that was authorized by registration of a subdivision pursuant to former chapter 498, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position and which registration or recordation was accomplished, or which permit or authorization was issued, prior to July 1, 1973. If a developer has, by his or her actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to the developer's interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

(a) For the purpose of determining the vesting of rights under this subsection, approval pursuant to local subdivision plat law, ordinances, or regulations of a subdivision plat by formal vote of a county or municipal governmental body having jurisdiction after August 1, 1967, and prior to July 1, 1973, is sufficient to vest all property rights for the purposes of this subsection; and no action in reliance on, or change of position concerning, such local

governmental approval is required for vesting to take place. Anyone claiming vested rights under this paragraph must notify the department in writing by January 1, 1986. Such notification shall include information adequate to document the rights established by this subsection. When such notification requirements are met, in order for the vested rights authorized pursuant to this paragraph to remain valid after June 30, 1990, development of the vested plan must be commenced prior to that date upon the property that the state land planning agency has determined to have acquired vested rights following the notification or in a binding letter of interpretation. When the notification requirements have not been met, the vested rights authorized by this paragraph shall expire June 30, 1986, unless development commenced prior to that date.

(b) For the purpose of this act, the conveyance of, or the agreement to convey, property to the county, state, or local government as a prerequisite to zoning change approval shall be construed as an act of reliance to vest rights as determined under this subsection, provided such zoning change is actually granted by such government.

(9) VALIDITY OF COMPREHENSIVE APPLICATION.—Any agreement previously entered into by a developer, a regional planning agency, and a local government regarding a development project that includes two or more developments of regional impact and was the subject of a comprehensive development-of-regional-impact application remains valid unless it expired on or before April 6, 2018.

(10) AREAWIDE DEVELOPMENT OF REGIONAL IMPACT.—Any approval of an authorized developer for an areawide development of regional impact remains valid unless it expired on or before April 6, 2018.

(11) ABANDONMENT OF DEVELOPMENTS OF REGIONAL IMPACT.—

(a) There is hereby established a process to abandon a development of regional impact and its associated development orders. A development of regional impact and its associated development orders may be proposed to be abandoned by the owner or developer. The local government in whose jurisdiction the development of regional impact is located also may propose to abandon the development of regional impact, provided that the local government gives individual written notice to each development-of-regional-impact owner and developer of record, and provided that no such owner or developer objects in writing to the local government before or at the public hearing pertaining to abandonment of the development of regional impact. If there is no existing development within the development of regional impact at the time of abandonment and no development within the development of regional impact is proposed by the owner or developer after such abandonment, an abandonment order may not require the owner or developer to contribute any land, funds, or public facilities as a condition of such abandonment order. The local government must file notice of the abandonment pursuant to s. 28.222 with the clerk of the circuit court for each county in which the development of regional impact is located. Abandonment will be deemed to have occurred upon the recording of the notice. Any decision by a local government concerning the abandonment of a development of regional impact is subject to an appeal pursuant to s. 380.07. The issues in any such appeal must be confined to whether the provisions of this subsection have been satisfied.

(b) If requested by the owner, developer, or local government, the development-of-regional-impact development order must be abandoned by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development which existed on the date of abandonment 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), provided such permit or authorization is subject to enforcement through administrative or judicial remedies. All development following abandonment must be fully consistent with the current comprehensive plan and applicable zoning.

(c) A development order for abandonment of an approved development of regional impact may be amended by a local government pursuant to subsection (7), provided that the amendment does not reduce any mitigation previously required as a condition of abandonment, unless the developer demonstrates that changes to the development no longer will result in impacts that necessitated the mitigation.

(12) PROPOSED DEVELOPMENTS.—

(a) A proposed development that exceeds the statewide guidelines and standards specified in s. 380.0651 and is not otherwise exempt pursuant to s. 380.0651 must be approved by a local government pursuant to s. 163.3184(4) in lieu of proceeding in accordance with this section. However, if the proposed development is consistent with the

comprehensive plan as provided in s. 163.3194(3)(b), the development is not required to undergo review pursuant to s. 163.3184(4) or this section.

(b) This subsection does not apply to:

1. Amendments to a development order governing an existing development of regional impact.

2. An application for development approval filed with a concurrent plan amendment application pending as of May 14, 2015, if the applicant elects to have the application reviewed pursuant to this section as it existed on that date. The election shall be in writing and filed with the affected local government, regional planning council, and state land planning agency before December 31, 2018.

History.—s. 6, ch. 72-317; s. 2, ch. 74-326; s. 5, ch. 75-167; s. 1, ch. 76-69; s. 2, ch. 77-215; s. 148, ch. 79-400; s. 3, ch. 80-313; s. 22, ch. 83-222; s. 4, ch. 83-308; s. 1, ch. 84-331; s. 43, ch. 85-55; s. 15, ch. 86-191; s. 1, ch. 88-164; s. 1, ch. 89-375; s. 1, ch. 89-536; s. 52, ch. 90-331; s. 20, ch. 91-192; s. 20, ch. 91-305; s. 1, ch. 91-309; s. 15, ch. 92-129; s. 2, ch. 93-95; s. 52, ch. 93-206; s. 345, ch. 94-356; s. 1029, ch. 95-148; s. 11, ch. 95-149; s. 9, ch. 95-322; s. 3, ch. 95-412; s. 114, ch. 96-410; s. 10, ch. 96-416; s. 1, ch. 97-28; s. 7, ch. 97-253; s. 52, ch. 97-278; s. 8, ch. 98-146; ss. 26, 31, ch. 98-176; s. 71, ch. 99-251; s. 7, ch. 99-378; s. 27, ch. 2001-201; s. 95, ch. 2002-20; s. 30, ch. 2002-296; s. 1, ch. 2004-10; s. 16, ch. 2005-157; s. 4, ch. 2005-166; s. 13, ch. 2005-281; s. 17, ch. 2005-290; s. 12, ch. 2006-69; s. 8, ch. 2006-220; s. 73, ch. 2007-5; ss. 8, 9, ch. 2007-198; s. 6, ch. 2007-204; s. 17, ch. 2008-240; s. 12, ch. 2009-96; s. 16, ch. 2010-4; s. 73, ch. 2010-5; s. 90, ch. 2010-102; s. 11, ch. 2011-14; ss. 54, 80, ch. 2011-139; s. 258, ch. 2011-142; s. 4, ch. 2011-223; s. 2, ch. 2012-75; s. 60, ch. 2012-96; s. 17, ch. 2012-99; s. 40, ch. 2014-218; s. 35, ch. 2015-2; s. 18, ch. 2015-30; s. 7, ch. 2016-148; ss. 1, 24, ch. 2018-158.

380.061 The Florida Quality Developments program.—

(1) This section only applies to developments approved as Florida Quality Developments before April 6, 2018.

(2) Following written notification to the state land planning agency and the appropriate regional planning agency, a local government with an approved Florida Quality Development within its jurisdiction must set a public hearing pursuant to its local procedures and shall adopt a local development order to replace and supersede the development order adopted by the state land planning agency for the Florida Quality Development. Thereafter, the Florida Quality Development shall follow the procedures and requirements for developments of regional impact as specified in this chapter.

History.—s. 44, ch. 85-55; s. 65, ch. 86-163; s. 17, ch. 86-191; s. 2, ch. 88-164; s. 2, ch. 89-375; s. 2, ch. 89-536; s. 4, ch. 91-41; s. 4, ch. 91-68; s. 16, ch. 92-129; s. 53, ch. 93-206; s. 10, ch. 94-122; ss. 10, 346, ch. 94-356; s. 1030, ch. 95-148; s. 12, ch. 95-149; s. 11, ch. 96-416; s. 9, ch. 98-146; s. 27, ch. 98-176; s. 200, ch. 99-245; s. 43, ch. 2009-21; s. 25, ch. 2009-243; s. 58, ch. 2011-139; s. 259, ch. 2011-142; ss. 2, 24, ch. 2018-158.

380.0651 Statewide guidelines, standards, and exemptions.—

(1) STATEWIDE GUIDELINES AND STANDARDS.—Subject to the exemptions and partial exemptions specified in this section, the following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments are subject to the requirements of s. 380.06:

(a) *Airports.—*

1. Any of the following airport construction projects is a development of regional impact:

a. A new commercial service or general aviation airport with paved runways.

b. A new commercial service or general aviation paved runway.

c. A new passenger terminal facility.

2. Lengthening of an existing runway by 25 percent or an increase in the number of gates by 25 percent or three gates, whichever is greater, on a commercial service airport or a general aviation airport with regularly scheduled flights is a development of regional impact. However, expansion of existing terminal facilities at a nonhub or small hub commercial service airport is not a development of regional impact.

3. Any airport development project which is proposed for safety, repair, or maintenance reasons alone and would not have the potential to increase or change existing types of aircraft activity is not a development of regional impact. Notwithstanding subparagraphs 1. and 2., renovation, modernization, or replacement of airport airside or terminal facilities that may include increases in square footage of such facilities but does not increase the number of gates or change the existing types of aircraft activity is not a development of regional impact.

(b) *Attractions and recreation facilities.*—Any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility, the construction or expansion of which:

1. For single performance facilities:

a. Provides parking spaces for more than 2,500 cars; or

b. Provides more than 10,000 permanent seats for spectators.

2. For serial performance facilities:

a. Provides parking spaces for more than 1,000 cars; or

b. Provides more than 4,000 permanent seats for spectators.

For purposes of this subsection, "serial performance facilities" means those using their parking areas or permanent seating more than one time per day on a regular or continuous basis.

(c) *Office development.*—Any proposed office building or park operated under common ownership, development plan, or management that:

1. Encompasses 300,000 or more square feet of gross floor area; or

2. Encompasses more than 600,000 square feet of gross floor area in a county with a population greater than 500,000 and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan.

(d) *Retail and service development.*—Any proposed retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite, operated under one common property ownership, development plan, or management that:

1. Encompasses more than 400,000 square feet of gross area; or

2. Provides parking spaces for more than 2,500 cars.

(e) *Recreational vehicle development.*—Any proposed recreational vehicle development planned to create or accommodate 500 or more spaces.

(f) *Multiuse development.*—Any proposed development with two or more land uses where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 145 percent. Any proposed development with three or more land uses, one of which is residential and contains at least 100 dwelling units or 15 percent of the applicable residential threshold, whichever is greater, where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 160 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under any other threshold.

(g) *Residential development.*—A rule may not be adopted concerning residential developments which treats a residential development in one county as being located in a less populated adjacent county unless more than 25 percent of the development is located within 2 miles or less of the less populated adjacent county. The residential thresholds of adjacent counties with less population and a lower threshold may not be controlling on any development wholly located within areas designated as rural areas of opportunity.

(h) *Workforce housing.*—The applicable guidelines for residential development and the residential component for multiuse development shall be increased by 50 percent where the developer demonstrates that at least 15 percent of the total residential dwelling units authorized within the development of regional impact will be dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced prior to the completion of 50 percent of the market rate dwelling. For purposes of this paragraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For the purposes of this paragraph, the term

"statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.

(i) *Schools.*—

1. The proposed construction of any public, private, or proprietary postsecondary educational campus which provides for a design population of more than 5,000 full-time equivalent students, or the proposed physical expansion of any public, private, or proprietary postsecondary educational campus having such a design population that would increase the population by at least 20 percent of the design population.

2. As used in this paragraph, "full-time equivalent student" means enrollment for 15 or more quarter hours during a single academic semester. In career centers or other institutions which do not employ semester hours or quarter hours in accounting for student participation, enrollment for 18 contact hours shall be considered equivalent to one quarter hour, and enrollment for 27 contact hours shall be considered equivalent to one semester hour.

3. This paragraph does not apply to institutions which are the subject of a campus master plan adopted by the university board of trustees pursuant to s. 1013.30.

(2) STATUTORY EXEMPTIONS.—The following developments are exempt from s. 380.06:

(a) Any proposed hospital.

(b) Any proposed electrical transmission line or electrical power plant.

(c) Any proposed addition to an existing sports facility complex if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled hours of operation of the existing facility;

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility; and

3. The sports facility complex property was owned by a public body before July 1, 1983.

This exemption does not apply to any pari-mutuel facility as defined in s. 550.002.

(d) Any proposed addition or cumulative additions subsequent to July 1, 1988, to an existing sports facility complex owned by a state university, if the increased seating capacity of the complex is no more than 30 percent of the capacity of the existing facility.

(e) Any addition of permanent seats or parking spaces for an existing sports facility located on property owned by a public body before July 1, 1973, if future additions do not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year's capacity.

(f) Any increase in the seating capacity of an existing sports facility having a permanent seating capacity of at least 50,000 spectators, provided that such an increase does not increase permanent seating capacity by more than 5 percent per year and does not exceed a total of 10 percent in any 5-year period. The sports facility must notify the appropriate local government within which the facility is located of the increase at least 6 months before the initial use of the increased seating in order to permit the appropriate local government to develop a traffic management plan for the traffic generated by the increase. Any traffic management plan must be consistent with the local comprehensive plan, the regional policy plan, and the state comprehensive plan.

(g) Any expansion in the permanent seating capacity or additional improved parking facilities of an existing sports facility, if the following conditions exist:

1.a. The sports facility had a permanent seating capacity on January 1, 1991, of at least 41,000 spectator seats;

b. The sum of such expansions in permanent seating capacity does not exceed a total of 10 percent in any 5-year period and does not exceed a cumulative total of 20 percent for any such expansions; or

c. The increase in additional improved parking facilities is a one-time addition and does not exceed 3,500 parking spaces serving the sports facility; and

2. The local government having jurisdiction over the sports facility includes in the development order or development permit approving such expansion under this paragraph a finding of fact that the proposed expansion is consistent with the transportation, water, sewer, and stormwater drainage provisions of the approved local comprehensive plan and local land development regulations relating to those provisions.

Any owner or developer who intends to rely on this statutory exemption shall provide to the state land planning agency a copy of the local government application for a development permit. Within 45 days after receipt of the application, the state land planning agency shall render to the local government an advisory and nonbinding opinion, in writing, stating whether, in the state land planning agency's opinion, the prescribed conditions exist for an exemption under this paragraph. The local government shall render the development order approving each such expansion to the state land planning agency. The owner, developer, or state land planning agency may appeal the local government development order pursuant to s. 380.07 within 45 days after the order is rendered. The scope of review shall be limited to the determination of whether the conditions prescribed in this paragraph exist. If any sports facility expansion undergoes development-of-regional-impact review, all previous expansions that were exempt under this paragraph must be included in the development-of-regional-impact review.

(h) Expansion to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater harbor facilities of the ports specified in s. 403.021(9)(b), port transportation facilities and projects listed in s. 311.07(3)(b), and intermodal transportation facilities identified pursuant to s. 311.09(3) when such expansions, projects, or facilities are consistent with port master plans and are in compliance with s. 163.3178.

(i) Any proposed facility for the storage of any petroleum product or any expansion of an existing facility.

(j) Any renovation or redevelopment within the same parcel as the existing development if such renovation or redevelopment does not change land use or increase density or intensity of use.

(k) Waterport and marina development, including dry storage facilities.

(l) Any proposed development within an urban service area boundary established under s. 163.3177(14), Florida Statutes 2010, that is not otherwise exempt pursuant to subsection (3), if the local government having jurisdiction over the area where the development is proposed has adopted the urban service area boundary and has entered into a binding agreement with jurisdictions that would be impacted and with the Department of Transportation regarding the mitigation of impacts on state and regional transportation facilities.

(m) Any proposed development within a rural land stewardship area created under s. 163.3248.

(n) The establishment, relocation, or expansion of any military installation as specified in s. 163.3175.

(o) Any self-storage warehousing that does not allow retail or other services.

(p) Any proposed nursing home or assisted living facility.

(q) Any development identified in an airport master plan and adopted into the comprehensive plan pursuant to s. 163.3177(6)(b)4.

(r) Any development identified in a campus master plan and adopted pursuant to s. 1013.30.

(s) Any development in a detailed specific area plan prepared and adopted pursuant to s. 163.3245.

(t) Any proposed solid mineral mine and any proposed addition to, expansion of, or change to an existing solid mineral mine. A mine owner must, however, enter into a binding agreement with the Department of Transportation to mitigate impacts to strategic intermodal system facilities. Proposed changes to any previously approved solid mineral mine development-of-regional-impact development orders having vested rights are not subject to further review or approval as a development-of-regional-impact or notice-of-proposed-change review or approval pursuant to [1]subsection (19), except for those applications pending as of July 1, 2011, which are governed by s. 380.115(2). Notwithstanding this requirement, pursuant to s. 380.115(1), a previously approved solid mineral mine development-of-regional-impact development order continues to have vested rights and continues to be effective unless rescinded by the developer. All local government regulations of proposed solid mineral mines are applicable to any new solid mineral mine or to any proposed addition to, expansion of, or change to an existing solid mineral mine.

(u) Notwithstanding any provision in an agreement with or among a local government, regional agency, or the state land planning agency or in a local government's comprehensive plan to the contrary, a project no longer subject to development-of-regional-impact review under the revised thresholds specified in s. 380.06(2)(b) and this section.

(v) Any development within a county that has a research and education authority created by special act and which is also within a research and development park that is operated or managed by a research and development authority pursuant to part V of chapter 159.

(w) Any development in an energy economic zone designated pursuant to s. 377.809 upon approval by its local governing body.

If a use is exempt from review pursuant to paragraphs (a)-(u), but will be part of a larger project that is subject to review pursuant to s. 380.06(12), the impact of the exempt use must be included in the review of the larger project, unless such exempt use involves a development that includes a landowner, tenant, or user that has entered into a funding agreement with the state land planning agency under the Innovation Incentive Program and the agreement contemplates a state award of at least $50 million.

(3) EXEMPTIONS FOR DENSE URBAN LAND AREAS.—

(a) The following are exempt from the requirements of s. 380.06:

1. Any proposed development in a municipality having an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;

2. Any proposed development within a county, including the municipalities located therein, having an average of at least 1,000 people per square mile of land area and the development is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan as defined in s. 163.3164;

3. Any proposed development within a county, including the municipalities located therein, having a population of at least 900,000 and an average of at least 1,000 people per square mile of land area, but which does not have an urban service area designated in the comprehensive plan; and

4. Any proposed development within a county, including the municipalities located therein, having a population of at least 1 million and the development is located within an urban service area as defined in s. 163.3164 which has been adopted into the comprehensive plan.

The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions meet the density criteria in subparagraphs 1.-4. by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to s. 186.901. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall annually submit to the state land planning agency by July 1 a list of jurisdictions that meet the total population and density criteria. The state land planning agency shall publish the list of jurisdictions on its website within 7 days after the list is received. The designation of jurisdictions that meet the criteria of subparagraphs 1.-4. is effective upon publication on the state land planning agency's website. If a municipality that has previously met the criteria no longer meets the criteria, the state land planning agency must maintain the municipality on the list and indicate the year the jurisdiction last met the criteria. However, any proposed development of regional impact not within the established boundaries of a municipality at the time the municipality last met the criteria must meet the requirements of this section until the municipality as a whole meets the criteria. Any county that meets the criteria must remain on the list. Any jurisdiction that was placed on the dense urban land area list before June 2, 2011, must remain on the list.

(b) If a municipality that does not qualify as a dense urban land area pursuant to paragraph (a) designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from s. 380.06 unless otherwise required by part II of chapter 163:

1. Urban infill as defined in s. 163.3164;

2. Community redevelopment areas as defined in s. 163.340;

3. Downtown revitalization areas as defined in s. 163.3164;

4. Urban infill and redevelopment under s. 163.2517; or

5. Urban service areas as defined in s. 163.3164 or areas within a designated urban service area boundary pursuant to s. 163.3177(14), Florida Statutes 2010.

(c) If a county that does not qualify as a dense urban land area designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;
2. Urban infill and redevelopment pursuant to s. 163.2517; or
3. Urban service areas as defined in s. 163.3164.

(d) If any portion of the development is located in an area that is not exempt from review under s. 380.06, the development must undergo review pursuant to that section.

(e) In an area that is exempt under paragraphs (a), (b), and (c), any previously approved development-of-regional-impact development orders shall continue to be effective. However, the developer has the option to be governed by s. 380.115(1).

(f) If a local government qualifies as a dense urban land area under this subsection and is subsequently found to be ineligible for designation as a dense urban land area, any development located within that area which has a complete, pending application for authorization to commence development shall maintain the exemption if the developer is continuing the application process in good faith or the development is approved.

(g) This subsection does not limit or modify the rights of any person to complete any development that has been authorized as a development of regional impact pursuant to this chapter.

(h) This subsection does not apply to areas:

1. Within the boundary of any area of critical state concern designated pursuant to s. 380.05;
2. Within the boundary of the Wekiva Study Area as described in s. 369.316; or
3. Within 2 miles of the boundary of the Everglades Protection Area as defined in s. 373.4592.

(4) PARTIAL STATUTORY EXEMPTIONS.—

(a) If the binding agreement referenced under paragraph (2)(l) for urban service boundaries is not entered into within 12 months after establishment of the urban service area boundary, the review pursuant to s. 380.06(12) for projects within the urban service area boundary must address transportation impacts only.

(b) If the binding agreement referenced under paragraph (2)(m) for rural land stewardship areas is not entered into within 12 months after the designation of a rural land stewardship area, the review pursuant to s. 380.06(12) for projects within the rural land stewardship area must address transportation impacts only.

(c) If the binding agreement for designated urban infill and redevelopment areas is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, the review pursuant to s. 380.06(12) for projects within the urban infill and redevelopment area must address transportation impacts only.

(d) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (2)(l) or paragraph (2)(m) must provide written notification to the state land planning agency of the decision to not enter into a binding agreement or the failure to enter into a binding agreement within the 12-month period referenced in paragraphs (a), (b), and (c). Following the notification of the state land planning agency, a review pursuant to s. 380.06(12) for projects within an urban service area boundary under paragraph (2)(l), or a rural land stewardship area under paragraph (2)(m), must address transportation impacts only.

(e) The vesting provision of s. 163.3167(5) relating to an authorized development of regional impact does not apply to those projects partially exempt from s. 380.06 under paragraphs (a)-(d).

History.—s. 46, ch. 85-55; s. 16, ch. 86-191; s. 3, ch. 88-164; s. 3, ch. 89-375; s. 3, ch. 89-536; s. 2, ch. 93-135; ss. 54, 55, ch. 93-206; ss. 347, 482, ch. 94-356; s. 13, ch. 95-149; s. 10, ch. 95-322; s. 4, ch. 95-412; s. 12, ch. 96-416; s. 93, ch. 98-200; s. 31, ch. 2002-296; s. 973, ch. 2002-387; s. 31, ch. 2004-357; s. 13, ch. 2006-69; s. 9, ch. 2006-220; s. 9, ch. 2007-198; s. 18, ch. 2008-240; s. 55, ch. 2011-139; s. 41, ch. 2014-218; s. 8, ch. 2016-148; s. 3, ch. 2018-158.

[1]**Note.**—Section 380.0651 does not contain a subsection (19). Chapter 2018-158 extensively amended s. 380.0651, as well as s. 380.06; portions of s. 380.06 were excised from that section and included in the amendment to s. 380.0651. Former s. 380.06(19), which related to substantial deviations of previous approved developments, became s. 380.06(7), relating to changes to proposed changes to a previously approved development.

380.0655 Expedited permitting process for marina projects reserving 10 percent or more boat slips for public use.—The Department of Environmental Protection and, as appropriate, the water management districts created by chapter 373 shall adopt programs to expedite the processing of wetland resource and environmental resource permits for marina projects that reserve at least 10 percent of available boat slips for public use.

History.—s. 10, ch. 2005-157.

380.0657 Expedited permitting process for economic development projects.—

(1) The Department of Environmental Protection and, as appropriate, the water management districts created under chapter 373 shall adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, or any intermodal logistics center receiving or sending cargo to or from Florida ports, with the exception of those projects requiring approval by the Board of Trustees of the Internal Improvement Trust Fund.

(2) A municipality or county shall provide an identified business with a city or county commission resolution identifying the business as a targeted industry business.

(3) A mandatory preapplication review process shall be required to reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and governmental entity, site planning and development, site suitability and limitations, facility design, and steps the applicant can take to ensure expeditious permit application review.

(4) A permit application shall be approved or denied within 45 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

(5) Notwithstanding the provisions of this section, permit applications for projects to be located in a charter county that has a population of 1.2 million or more and has entered into a delegation agreement with the Department of Environmental Protection or the applicable water management district to process environmental resource permits, wetland resource management permits, or surface water management permits pursuant to chapter 373 are eligible for expedited permitting under this section only upon designation by resolution of the charter county's governing board. Before the governing board decides that a project is eligible for expedited permitting, it may require the county's economic development agency, or such other agency that provides advice to the governing board on economic matters, to review and recommend whether the project meets the definition of a target industry business as defined in s. 288.106 and to identify the tangible benefits and impacts of the project. The governing board's decision shall be made without consideration of the project's geographic location within the charter county. If the governing board designates the project as a target industry business, the permit application for the project shall be approved or denied within the timeframe provided in subsection (4).

History.—s. 2, ch. 2009-134; s. 11, ch. 2012-205.

380.0661 Legislative intent.—It is hereby declared that the intent of the Legislature is:

(1) To provide a mechanism to equitably deal with the challenges of implementing comprehensive land use plans developed pursuant to the area of critical state concern program, which challenges are often complicated by the environmental sensitivity of such areas.

(2) To provide the mechanism referred to in subsection (1) by creation of a body politic which would have a stable funding source and the flexibility to address plan implementation innovatively and by acting as an intermediary between individual landowners and the governmental entities regulating land use.

History.—s. 1, ch. 86-170.

380.0662 Definitions.—As used in this act, unless the context indicates a different meaning or intent:

(1) "Land authority" means the land authority created by a county pursuant to this act.

(2) "State" means the State of Florida.

(3) "Bonds" means any bonds, debentures, notes, or other evidences of financial indebtedness issued on behalf of the land authority pursuant to this act.

(4) "Local government" means a unit of local general-purpose government as defined in s. 218.31(2).

(5) "Project" means any work or improvement to real property, buildings, and any other property located in an area of critical state concern.

(6) "Real property" means all lands located in an area of critical state concern, including improvements and fixtures thereon and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms of years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

(7) "State Bond Act" means ss. 215.57-215.83, as the same may be amended from time to time.

(8) "State Board of Administration" means the State Board of Administration created by and referred to in s. 4, Art. IV of the State Constitution.

(9) "Division" means the Division of Bond Finance of the State Board of Administration.

(10) "Pledged revenues" means revenues to be derived from s. 125.0108 or s. 380.0685, and any other revenues or assets that may be legally available to pay the principal of, redemption premium if any on, insurance and cash reserves for, and interest on the bonds derived from sources other than ad valorem taxation, including revenues from other sources or any combination thereof; however, in no event shall the full faith and credit of the state or any local government other than the land authority be pledged to secure such revenue bonds.

(11) "Authorized investments" means and includes any of the following securities:

(a) Direct obligations of, or obligations guaranteed by, the United States of America.

(b) Bonds, debentures, notes, or other evidences of indebtedness issued by any of the following: Bank for Cooperatives; federal intermediate credit banks; federal home loan banks; Export-Import Bank of the United States; federal land banks; Federal National Mortgage Association; Government National Mortgage Association; Federal Financing Bank; Small Business Administration; or any other agency or instrumentality of the United States of America, created by an Act of Congress, substantially similar to the foregoing in its legal relationship to the United States of America.

(c) Public housing bonds issued by public housing agencies and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America, and temporary notes, preliminary loan notes, or project notes issued by public housing agencies, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America.

(d) Interest-bearing time or demand deposits, certificates of deposit, or other similar banking arrangements with any bank, trust company, national banking association, or other depository institution, including any trustee or other fiduciary with respect to the bonds of the land authority, provided:

1. The deposits, certificates, and other arrangements are insured to the satisfaction of the land authority by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

2. The depository institution has combined capital and surplus of at least $10 million and the deposits, certificates, and other arrangements are fully secured by obligations described in paragraphs (a)-(c), inclusive, or a combination thereof; or

3. The depository institution has combined capital and surplus of at least $25 million.

(e) Contracts for the purchase and sale of obligations described in paragraphs (a) and (b), provided that if the parties with which the contracts are made are not members of the Federal Reserve System or if the parties, including members of the Federal Reserve System, are not required to set aside and otherwise identify, to the satisfaction of the agency, obligations described in paragraph (a) or paragraph (b) to such contracts as security or reserve therefor in an amount at least equal to the face value of each contract, the obligations shall be delivered to and held by a trustee or other fiduciary with respect to the bonds of the agency during the term of the contracts.

History.—s. 1, ch. 86-170; s. 4, ch. 88-164; s. 300, ch. 92-279; s. 55, ch. 92-326; s. 64, ch. 2013-15.

380.0663 Land authority; creation, membership, expenses.—

(1) Each county in which one or more areas of critical state concern are located is authorized to create, by ordinance, a public body corporate and politic, to be known as a land authority, which may be renamed by the

governing board of the county. The governing body of the land authority shall be the governing board of the county. For the purposes of this act, the governing body of the land authority shall be referred to individually or collectively as the members or membership of the land authority, whichever is appropriate.

(2) The chair and a vice chair shall be elected annually by the members of the land authority. The membership of the land authority may also designate and elect any additional officers as may be deemed necessary in order to carry out the responsibilities pursuant to this act.

(3) Members of the land authority shall receive no compensation for services but shall be entitled to necessary expenses, including per diem and travel expenses, incurred in the discharge of official duties as provided by law.

History.—s. 1, ch. 86-170; s. 642, ch. 95-148.

380.0664 Quorum; voting; meetings.—The powers of the land authority shall be vested in its members in office from time to time. A majority of the members of the land authority eligible to vote shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the land authority upon an affirmative vote of a majority of the members present and eligible to vote; however, no action shall be taken by an affirmative vote of less than a majority of the total membership. Meetings shall be held at the call of the chair or any three members.

History.—s. 1, ch. 86-170; s. 643, ch. 95-148.

380.0665 Executive director; agents and employees.—The appointment and removal of an executive director shall be by the members of the land authority. The executive director shall subsequently employ legal and technical experts and such other agents and employees, permanent and temporary, as the land authority may require.

History.—s. 1, ch. 86-170.

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

(1) To sue and be sued; to have a seal, to alter the same at pleasure, and to authorize the use of a facsimile thereof; and to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the land authority.

(2) To undertake and carry out studies and analyses of county land planning needs within areas of critical state concern and ways of meeting those needs.

(3)(a) To acquire and dispose of real and personal property or any interest therein when such acquisition is necessary or appropriate to protect the natural environment, provide public access or public recreational facilities, preserve wildlife habitat areas, provide affordable housing to families whose income does not exceed 160 percent of the median family income for the area, prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern, or provide access to management of acquired lands; to acquire interests in land by means of land exchanges; to contribute tourist impact tax revenues received pursuant to s. 125.0108 to the county in which it is located and its most populous municipality or the housing authority of such county or municipality, at the request of the county commission or the commission or council of such municipality, for the construction, redevelopment, or preservation of affordable housing in an area of critical state concern within such municipality or any other area of the county; to contribute funds to the Department of Environmental Protection for the purchase of lands by the department; and to enter into all alternatives to the acquisition of fee interests in land, including, but not limited to, the acquisition of easements, development rights, life estates, leases, and leaseback arrangements. However, the land authority shall make an acquisition or contribution only if:

1. Such acquisition or contribution is consistent with land development regulations and local comprehensive plans adopted and approved pursuant to this chapter;

2. The property acquired is within an area designated as an area of critical state concern at the time of acquisition or is within an area that was designated as an area of critical state concern for at least 20 consecutive years before removal of the designation;

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

4. The acquisition or contribution is not used to improve public transportation facilities or otherwise increase road capacity to reduce hurricane evacuation clearance times.

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

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

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

3. Professional fees in connection with the planning, design, and construction of the project, such as those of architects, engineers, attorneys, and accountants;

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

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

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

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

(4) To borrow money through the issuance of bonds for the purposes provided in this act, to provide for and secure the payment thereof, and to provide for the rights of the holders thereof.

(5) To purchase bonds of the land authority out of any funds or moneys of the land authority available therefor and to hold, cancel, or resell such bonds.

(6) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be authorized for trust funds under s. 215.47, and in any authorized investments, if such investments are made on behalf of the land authority by the State Board of Administration or by another trustee appointed for that purpose.

(7) To contract for and to accept gifts, grants, loans, or other aid from the United States Government or any person or corporation, including gifts of real property or any interest therein.

(8) To insure and procure insurance against any loss in connection with any bonds of the land authority and the land authority's operations, including without limitation:

(a) The repayment of any loans to mortgage lenders or mortgage loans;

(b) Any project;

(c) Any bonds of the land authority;

in such amounts and from such insurers, including the Federal Government, as it may deem necessary or desirable and to pay any premiums therefor.

(9) To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice.

(10) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the land authority under this act, including contracts with any person, firm, corporation, local government, or other entity; and all local governments established under the laws of the state are hereby authorized to enter into and do all things necessary to perform such contracts and otherwise cooperate with the land authority to facilitate the accomplishment of the purposes of this act.

(11) To undertake any actions necessary to conduct a feasibility and design study for a solid waste management facility in an area of critical state concern and, if such project is feasible, to carry out such project.

(12) To identify parcels of land within the area or areas of critical state concern that would be appropriate acquisitions by the state and recommend such acquisitions to the advisory council established pursuant to s. 259.035 or its successor.

(13) To do any and all things necessary or convenient to carry out the purposes of, and exercise the powers given and granted in, this act.

History.—s. 1, ch. 86-170; s. 5, ch. 88-164; s. 3, ch. 88-376; s. 15, ch. 89-116; s. 10, ch. 92-288; s. 40, ch. 99-247; s. 4, ch. 2006-223; s. 38, ch. 2013-18; s. 31, ch. 2015-30; s. 63, ch. 2015-229; s. 8, ch. 2016-225; s. 6, ch. 2018-159.

380.0667 Advisory committee; acquisitions.—

(1) The land authority shall establish an advisory committee which shall make recommendations regarding land acquisition to the land authority in accordance with the criteria set forth in this act. The advisory committee shall be composed of five members appointed by the land authority. The members shall serve 3-year terms, except that the initial terms may be for 1 or 2 years in order for terms to be staggered. The advisory committee shall by resolution recommend acquisitions by presenting the land authority, at the time specified by the land authority, a list of proposed acquisitions in order of recommended priority.

(2) The advisory committee shall prioritize land acquisitions each year according to the following:

(a) Any parcel of undeveloped land for which an option to purchase pursuant to paragraph (b) is given to the land authority prior to January 15, 1987, shall be given priority over all other acquisitions for which no such option is given, with further priority given to parcels of land that would have been developable but for the adoption of the approved comprehensive plan and land development regulations under s. 380.05.

(b) To qualify as an option under paragraph (a), such option shall:

1. Be for a period of at least 1 year.

2. Offer to sell for a net price to the offeror of no more than 115 percent of the property appraiser's last assessment prior to June 1, 1986, or, alternatively, offer to sell at no more than appraised value if approved by the property appraiser, if the appraiser is selected by the land authority and reimbursed by the offeror.

3. Contain a provision allowing the offeror to retain his or her priority, if the option is not executed within the term of the option, by renewing said option for one or more similar terms.

(3) The land authority shall approve the list of acquisitions, in whole or in part, in the order of priority recommended by the advisory committee. Acquisitions shall be made in the approved order of priority to the greatest extent possible.

History.—s. 1, ch. 86-170; s. 6, ch. 88-164; s. 644, ch. 95-148.

380.0668 Bonds; purpose, terms, approval, limitations.—

(1) The issuance of revenue bonds to provide sufficient funds to achieve the purposes of this act; pay interest on bonds; pay expenses incident to the issuance and sale of any bond issued pursuant to this act, including costs of validating, printing, and delivering the bonds, printing the official statement, publishing notices of sale of the bonds, and related administrative expenses; and pay all other capital expenditures of the land authority incident to and necessary or convenient to carry out the purposes and powers granted by this act is authorized, subject and pursuant to the provisions of the State Constitution and the applicable provisions of this act and of the State Bond Act. Revenue bonds issued pursuant to this act shall be payable solely from pledged revenues.

(2) All such bonds shall be issued on behalf of the land authority and in the name of the land authority by the Division of Bond Finance from time to time, as provided by the State Bond Act, with a term of not more than 45 years and, except as otherwise provided herein, in such principal amounts as shall be necessary to provide sufficient funds to achieve the purposes of the land authority in carrying out this act and purposes incident thereto.

(3) There shall be established a debt service reserve account in an amount at least equal to the greatest amount of principal and interest to become due on such issue in any ensuing state fiscal year or an amount at least equal to an average of the annual principal and interest, all as may be determined by the Division of Bond Finance; except that a reserve of a lesser amount may be established if the land authority, with the concurrence of the Division of Bond Finance, determines that such reserve, if any, will adequately protect the interests of bondholders. The land authority,

with the concurrence of the division, is authorized to provide the use of an insurance policy or letter of credit in lieu of a debt service reserve account.

(4)(a) The provisions of the State Bond Act, including, without limitation, the definitions contained therein, shall be applicable to all bonds issued pursuant to this act, when not in conflict with the provisions hereof; however, the basis of award of sale of such bonds may be either the net interest cost or the true or effective interest cost, as set forth in the resolution authorizing the sale of such bonds. In cases of conflict, the provisions of this act shall be controlling. Solely for purposes of the State Bond Act, a land authority shall be defined as a state agency.

(b) In actions to validate such bonds pursuant to chapter 75, the complaint shall be filed in the Circuit Court of Leon County, the notice required by s. 75.06 shall be published in newspapers of general circulation in the county in which the area or areas of critical state concern involved are located, and the complaint and order of the court shall be served on the state attorney of the Second Judicial Circuit and the circuit in which the area or areas of critical state concern involved are located.

(5) Any resolution or resolutions authorizing any bonds issued on behalf of the land authority may contain provisions, without limitation, which shall be a part of the contract or contracts with the holders thereof, as to:

(a) Pledging all or any part of the income or revenues of the land authority to secure the payment of bonds or of any issue thereof, subject to such agreements with holders of bonds as may then exist.

(b) Pledging all or any part of the income or revenues generated by a solid waste management facility to secure the payment of bonds or of any issue thereof, subject to such agreements with holders of bonds as may then exist.

(c) The procedure, if any, by which the terms of any contract with holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(d) Vesting in a trustee or trustees such property, rights, powers, and duties in trust as the resolution may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the holders of bonds pursuant to this act, and limiting or abrogating the right of holders of bonds to appoint a trustee under this act or limiting the rights, powers, and duties of such trustee.

(e) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the land authority to the holders of bonds in providing for the rights and remedies of holders of bonds in the event of such default, including, as a matter of right, the appointment of a receiver; provided such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this act.

(f) Any other matters of like or different character which in any way affect the security or protection of holders of bonds.

(6)(a) The bonds issued on behalf of the land authority shall be sold at public sale in the manner provided by the State Bond Act. However, if the division shall by resolution determine that a negotiated sale of the bonds is in the best interest of the land authority, the division may negotiate for sale of the bonds with the underwriter or underwriters designated by the division. In the resolution authorizing the negotiated sale, the division shall provide specific findings as to the reasons for the negotiated sale. The reasons shall include, but shall not be limited to, characteristics of the bond issue and prevailing market conditions that necessitate a negotiated sale. In the event the division decides to negotiate for a sale of bonds, the managing underwriter, or financial consultant or adviser, if applicable, shall provide to the land authority or division, prior to the award of bonds to the managing underwriter, a disclosure statement containing the following information:

1. An itemized list setting forth the nature and estimated amounts of expenses to be incurred by the managing underwriter in connection with the issuance of such bonds. Notwithstanding the foregoing, any such list may include an item for miscellaneous expenses, provided it includes only minor items of expense which cannot be easily categorized elsewhere in the statement.

2. The names, addresses, and estimated amounts of compensation of any finders connected with the issuance of the bonds.

3. The amount of underwriting spread expected to be realized.

4. Any management fee charged by the managing underwriter.

5. Any other fee, bonus, or compensation estimated to be paid by the managing underwriter in connection with the bond issue to any person not regularly employed or retained by it.

6. The name and address of the managing underwriter or underwriters, if any, connected with the bond issue.
7. Any other disclosure which the division may require.

This paragraph is not intended to restrict or prohibit the employment of professional services relating to bonds issued under this act or the issuance of bonds by the division under any other law. This paragraph shall not prohibit the use of private placement bonds.

(b) In the event an offer of an issue of bonds at public sale produces no bid, or in the event all bids received are rejected, the division is authorized to negotiate for the sale of the bonds under such rates and terms as are acceptable; however, no bonds shall be so sold or delivered on terms less favorable than the terms contained in any bids rejected at the public sale thereof or, if no bids were received at such public sale, the terms contained in the notice of public sale.

(c) The failure of the land authority or division to comply with one or more provisions of this section shall not affect the validity of the bond issue; however, upon such failure to comply, the division shall sell all future bonds only at public sale as provided for herein, except as provided in paragraph (b).

(7)(a) No underwriter, commercial bank, investment banker, or financial consultant or adviser shall pay any finder any bonus, fee, or gratuity in connection with the sale of bonds or revenue bonds issued by the division unless full disclosure is made to the division prior to or concurrently with the submission of a purchase proposal for bonds by the underwriter, commercial bank, investment banker, or financial consultant or adviser and is made subsequently in the official statement or offering circular, if any, detailing the name and address of any finder and the amount of bonus, fee, or gratuity paid to such finder.

(b) The willful violation of this subsection is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) No violation of this subsection shall affect the validity of the bond issue.

(8) As used in this section, the term "finder" means a person who is neither regularly employed by, nor a partner or officer of, an underwriter, bank, banker, or financial consultant or adviser and who enters into an understanding with either the issuer or the managing underwriter, or both, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or impliedly, to act solely as an intermediary between such issuer and managing underwriter for the purpose of influencing any transaction in the purchase of such bonds.

(9) All bonds issued on behalf of the land authority shall state on the face thereof that they are payable, both as to principal and interest, solely out of the pledged revenues of the land authority and do not constitute an obligation, either general or special, of the state or of any local government.

(10) All bonds issued on behalf of the land authority are hereby declared to have all the qualities and incidents of negotiable instruments under the applicable laws of the state.

(11) It is the intent of the Legislature that any pledge of earnings, revenues, or other moneys made by the land authority shall be valid and binding from the time when the pledge is made; that the earnings, revenues, or other moneys so pledged and thereafter received by the land authority shall immediately be subject to the lien of that pledge without any physical delivery thereof or further act; and that the lien of the pledge shall be valid and binding as against the land authority irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed pursuant to the Uniform Commercial Code.

(12) Neither the members or the employees of the land authority or the division nor any person executing the bonds of the land authority shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

History.—s. 1, ch. 86-170; s. 7, ch. 88-164; s. 14, ch. 2012-212.

380.0669 State and local government liability on bonds.—The bonds of the land authority shall not be a debt of the state or of any local government other than the land authority, and neither the state nor any local government other than the land authority shall be liable thereon. Except for revenues specifically designated by this act for use by the land authority, the land authority shall not have the power to pledge the credit, the revenues, or the taxing power of the state or of any local government; and except as provided in this act neither the credit, the revenues, nor the

taxing power of the state or of any local government shall be, or shall be deemed to be, pledged to the payment of any bonds of the land authority.

History.—s. 1, ch. 86-170; s. 8, ch. 88-164.

380.0671 Annual report.—The land authority shall submit to the Governor and the presiding officers of each house of the Legislature, within 6 months after the end of its fiscal year, a complete and detailed report setting forth:

(1) Its operations and accomplishments.

(2) Its receipts and expenditures during the fiscal year in accordance with the categories or classifications established by the land authority for its operating and capital outlay purposes.

(3) Its assets and liabilities at the end of its fiscal year and the status of reserve, special, or other funds.

(4) A schedule of its bonds outstanding at the end of its fiscal year, together with a statement of the principal amounts of bonds issued and redeemed during the fiscal year.

History.—s. 1, ch. 86-170.

380.0672 Conflicts of interest.—

(1) Nothing in this section shall be deemed or construed to limit the right of any member, officer, or employee of the land authority to acquire an interest in bonds of the land authority or have an interest in any banking institution in which the bonds of the land authority are, or are to be, deposited or which is, or is to be, acting as trustee or paying agent under any bond resolution, trust indenture, or similar instrument to which the land authority is a party.

(2) Under no circumstances shall a financial adviser for bonds of the land authority serve as an underwriter for the land authority's bonds within 2 years of having been such a financial adviser for such bonds.

History.—s. 1, ch. 86-170.

380.0673 Exemption from taxes and eligibility as investment.—

(1) The property of the land authority and the transactions and operations thereof and the income therefrom shall be exempt from taxation by the state and its political subdivisions. The exemption granted by this subsection shall not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

(2) All bonds of the land authority shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This subsection shall be considered as additional and supplemental authority and shall not be limited without specific reference hereto.

History.—s. 1, ch. 86-170; s. 54, ch. 89-356.

380.0674 Corporate existence.—

(1) The land authority and its corporate existence shall continue until terminated by law or action of the governing board of the county that established it; however, no such law or action shall take effect so long as the land authority shall have bonds outstanding unless adequate provision has been made for the payment thereof. Upon termination of the existence of the land authority, all its rights and properties in excess of its obligations shall pass to and be vested in the state.

(2) A land authority created by a county in which one or more areas have been designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation shall continue to exist and exercise all powers granted by this chapter until terminated by law or action of the governing board pursuant to subsection (1).

History.—s. 1, ch. 86-170; s. 5, ch. 2006-223.

380.0675 Inconsistent provisions of other laws superseded.—Insofar as the provisions of this act are inconsistent with the provisions of any other law, general, special, or local, the provisions of this act shall be controlling.

History.—s. 1, ch. 86-170.

380.0685 State park in area of critical state concern in county which creates land authority; surcharge on admission and overnight occupancy.—The Department of Environmental Protection shall impose and collect a surcharge of 50 cents per person per day, or $5 per annual family auto entrance permit, on admission to all state parks in areas of critical state concern located in a county which creates a land authority pursuant to s. 380.0663(1), and a surcharge of $2.50 per night per campsite, cabin, or other overnight recreational occupancy unit in state parks in areas of critical state concern located in a county which creates a land authority pursuant to s. 380.0663(1); however, no surcharge shall be imposed or collected under this section for overnight use by nonprofit groups of organized group camps, primitive camping areas, or other facilities intended primarily for organized group use. Such surcharges shall be imposed within 90 days after any county creating a land authority notifies the Department of Environmental Protection that the land authority has been created. The proceeds from such surcharges, less a collection fee that shall be kept by the Department of Environmental Protection for the actual cost of collection, not to exceed 2 percent, shall be transmitted to the land authority of the county from which the revenue was generated. Such funds shall be used to purchase property in the area or areas of critical state concern in the county from which the revenue was generated. An amount not to exceed 10 percent may be used for administration and other costs incident to such purchases. However, the proceeds of the surcharges imposed and collected pursuant to this section in a state park or parks located wholly within a municipality, less the costs of collection as provided herein, shall be transmitted to that municipality for use by the municipality for land acquisition or for beach renourishment or restoration, including, but not limited to, costs associated with any design, permitting, monitoring, and mitigation of such work, as well as the work itself. However, these funds may not be included in any calculation used for providing state matching funds for local contributions for beach renourishment or restoration. The surcharges levied under this section shall remain imposed as long as the land authority is in existence.

History.—s. 3, ch. 86-170; s. 9, ch. 88-164; s. 348, ch. 94-356; s. 2, ch. 2011-110; s. 60, ch. 2011-139.

380.07 Florida Land and Water Adjudicatory Commission.—

(1) There is hereby created the Florida Land and Water Adjudicatory Commission, which shall consist of the Administration Commission. The commission may adopt rules necessary to ensure compliance with the area of critical state concern program.

(2) Whenever any local government issues any development order in any area of critical state concern, or in regard to the abandonment of any approved development of regional impact, copies of such orders as prescribed by rule by the state land planning agency shall be transmitted to the state land planning agency, the regional planning agency, and the owner or developer of the property affected by such order. The state land planning agency shall adopt rules describing development order rendition and effectiveness in designated areas of critical state concern. Within 45 days after the order is rendered, the owner, the developer, or the state land planning agency may appeal the order to the Florida Land and Water Adjudicatory Commission by filing a petition alleging that the development order is not consistent with this part.

(3) Notwithstanding any other provision of law, an appeal of a development order in an area of critical state concern by the state land planning agency under this section may include consistency of the development order with the local comprehensive plan.

(4) The appellant shall furnish a copy of the notice of appeal to the opposing party, as the case may be, and to the local government that issued the order. The filing of the notice of appeal stays the effectiveness of the order until after the completion of the appeal process.

(5) Before issuing an order, the Florida Land and Water Adjudicatory Commission shall hold a hearing pursuant to chapter 120. The commission shall encourage the submission of appeals on the record made pursuant to subsection (7) in cases in which the development order was issued after a full and complete hearing before the local government or an agency thereof.

(6) The Florida Land and Water Adjudicatory Commission shall issue a decision granting or denying permission to develop pursuant to the standards of this chapter and may attach conditions and restrictions to its decisions.

(7) If an appeal is filed with respect to any issues within the scope of a permitting program authorized by chapter 161, chapter 373, or chapter 403 and for which a permit or conceptual review approval has been obtained before the issuance of a development order, any such issue shall be specifically identified in the notice of appeal which is filed pursuant to this section, together with other issues that constitute grounds for the appeal. The appeal may proceed with respect to issues within the scope of permitting programs for which a permit or conceptual review approval has been obtained before the issuance of a development order only after the commission determines by majority vote at a regularly scheduled commission meeting that statewide or regional interests may be adversely affected by the development. In making this determination, there is a rebuttable presumption that statewide and regional interests relating to issues within the scope of the permitting programs for which a permit or conceptual approval has been obtained are not adversely affected.

History.—s. 7, ch. 72-317; s. 1, ch. 77-117; s. 3, ch. 77-215; s. 15, ch. 78-95; s. 47, ch. 85-55; s. 18, ch. 86-191; s. 56, ch. 93-206; s. 13, ch. 96-416; s. 10, ch. 98-146; s. 10, ch. 2006-220; s. 4, ch. 2018-158.

380.08 Protection of landowners' rights.—

(1) Nothing in this chapter authorizes any governmental agency to adopt a rule or regulation or issue any order that is unduly restrictive or constitutes a taking of property without the payment of full compensation, in violation of the constitutions of this state or of the United States.

(2) If any governmental agency authorized to adopt a rule or regulation or issue any order under this chapter determines that, to achieve the purposes of this chapter, it is in the public interest to acquire the fee simple or lesser interest in any parcel of land, such agency shall so certify to the state land planning agency, the Board of Trustees of the Internal Improvement Trust Fund, and other appropriate governmental agencies. Prior to such agency's acquiring such land, the seller of the land shall file a statement with the department disclosing, for at least the last 5 years prior to the conveyance of title to the state, all financial transactions concerning the land and all parties having a financial interest in any transaction.

(3) If any governmental agency denies a development permit under this chapter, it shall specify its reasons in writing and indicate any changes in the development proposal that would make it eligible to receive the permit.

History.—s. 8, ch. 72-317; s. 2, ch. 75-81; s. 16, ch. 84-330; s. 4, ch. 89-276; s. 15, ch. 92-288; s. 66, ch. 95-143.

380.085 Judicial review relating to permits and licenses.—

(1) As used in this section, unless the context otherwise requires:

(a) "Agency" means any official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of state government.

(b) "Permit" means any permit or license required by this part.

(2) Any person substantially affected by a final action of any agency with respect to a permit may seek review within 90 days of the rendering of such decision and request monetary damages and other relief in the circuit court in the judicial circuit in which the affected property is located; however, circuit court review shall be confined solely to determining whether final agency action is an unreasonable exercise of the state's police power constituting a taking without just compensation. Review of final agency action for the purpose of determining whether the action is in accordance with existing statutes or rules and based on competent substantial evidence shall proceed in accordance with chapter 120.

(3) If the court determines the decision reviewed is an unreasonable exercise of the state's police power constituting a taking without just compensation, the court shall remand the matter to the agency which shall, within a reasonable time:

(a) Agree to issue the permit;

(b) Agree to pay appropriate monetary damages; however, in determining the amount of compensation to be paid, consideration shall be given by the court to any enhancement to the value of the land attributable to governmental action; or

(c) Agree to modify its decision to avoid an unreasonable exercise of police power.

(4) The agency shall submit a statement of its agreed-upon action to the court in the form of a proposed order. If the action is a reasonable exercise of police power, the court shall enter its final order approving the proposed order. If the agency fails to submit a proposed order within a reasonable time not to exceed 90 days which specifies an action that is a reasonable exercise of police power, the court may order the agency to perform any of the alternatives specified in subsection (3).

(5) The court shall award reasonable attorney's fees and court costs to the agency or substantially affected person, whichever prevails.

(6) The provisions of this section are cumulative and shall not be deemed to abrogate any other remedies provided by law.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 78-85.

380.11 Enforcement; procedures; remedies.—

(1) JUDICIAL REMEDIES.—

(a) The state land planning agency, a state attorney, a county, and a municipality are each authorized to bring an action for injunctive relief, both temporary and permanent, against any person or developer found to be in violation of the provisions of this part or any rules, regulations, or orders issued thereunder.

(b) It shall not be a defense to, or ground for dismissal of, an action for injunctive relief brought by the state land planning agency that it has failed to exhaust its administrative remedies.

(2) ADMINISTRATIVE REMEDIES.—

(a) If the state land planning agency has reason to believe a violation of this part or any rule, development order, or other order issued hereunder or of any agreement entered into under s. 380.032(3) has occurred or is about to occur, it may institute an administrative proceeding pursuant to this section to prevent, abate, or control the conditions or activity creating the violation.

(b) An administrative proceeding shall be instituted by service by the state land planning agency of a written notice of violation upon the alleged violator, by certified mail. The notice shall specify the law, rule, development order, or other order alleged to be violated and the facts alleged to constitute a violation. An order directing cessation or prevention of the conditions or action that caused the notice of violation to be served may be included with the notice. However, no order served with the notice of violation is final and effective until 20 days after the date of service or until the conclusion of a properly requested administrative hearing. A request for an administrative hearing shall be in writing and shall be filed with the clerk of the state land planning agency within 20 days after the date of service of the notice upon the alleged violator. The failure to request an administrative hearing within the 20-day period constitutes a waiver thereof, and the notice of violation and any accompanying corrective order shall become final agency action. The state land planning agency may seek enforcement of its final agency action in accordance with s. 120.69 or by written agreement entered into with the alleged violator pursuant to s. 380.032(3).

(c) The state land planning agency may institute an administrative proceeding against any developer or responsible party pertaining to any area of critical state concern designated in s. 380.05, s. 380.055, s. 380.0551, or s. 380.0552:

1. To enjoin development activity if the damage or injury is caused by the development activity or by a violation of s. 380.05, s. 380.055, s. 380.0551, s. 380.0552, a rule of any governmental agency, or a development order.

2. To require the responsible party to replace or restore a deteriorated, damaged, injured, or otherwise significantly impacted natural, historical, or archaeological resource, major public facility, or area of major public investment if the damage or injury is caused by the development activity or by a violation of s. 380.05, s. 380.055, s. 380.0551, s. 380.0552, a rule of any governmental agency, or a development order.

3. To require the governmental agency to properly administer critical area regulations.

(d) The state land planning agency may institute an administrative proceeding against any developer or responsible party to obtain compliance with s. 380.06 and binding letters, agreements, rules, orders, or development orders issued pursuant to s. 380.032(3), s. 380.05, s. 380.06, or s. 380.07. The state land planning agency may seek enforcement of its final agency action in accordance with s. 120.69 or by written agreement with the alleged violator pursuant to s. 380.032(3).

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

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