

Committee Substitute for  
Committee Substitute for Senate Bill No. 2188

An act relating to land development; amending s. 197.502, F.S.; providing for the issuance of an escheatment tax deed that is free and clear of any tax certificates, accrued taxes, and liens of any nature for certain properties; providing immunity for a county from environmental liability for certain properties that escheat to the county; providing for a written agreement between a county and the Department of Environmental Protection which addresses any investigative and remedial acts necessary for certain properties; providing legislative findings with respect to the shortage of affordable rentals in the state; providing a statement of important public purpose; providing definitions; authorizing local governments to permit accessory dwelling units in areas zoned for single-family residential use based upon certain findings; providing for certain accessory dwelling units to apply towards satisfying the affordable housing component of the housing element in a local government's comprehensive plan; requiring the Department of Community Affairs to report to the Legislature; amending s. 163.3167, F.S.; requiring a local government to address certain water supply sources in its comprehensive plan; amending s. 163.3177, F.S.; providing that rural land stewardship area designation should be specifically encouraged as an overlay on the future land use map; extending the deadline for certain information to be included in a comprehensive plan; requiring a work plan to be updated at certain intervals; requiring the Department of Community Affairs, in cooperation with other specified state agencies, to provide assistance to local governments in implementing provisions relating to rural land stewardship areas; providing for multicounty rural land stewardship areas; revising requirements, including the acreage threshold for designating a rural land stewardship area; providing that transferable rural land use credits may be assigned at different ratios according to the natural resource or other beneficial use characteristics of the land; providing legislative findings regarding mixed-use, high-density urban infill and redevelopment projects; requiring the Department of Community Affairs to provide technical assistance to local governments; providing legislative findings regarding a program for the transfer of development rights and urban infill and redevelopment; requiring the Department of Community Affairs to provide technical assistance to local governments; amending s. 163.3187, F.S.; providing an exception to the limitation on the frequency of plan amendments; providing an effective date.

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

Section 1. Subsection (8) of section 197.502, Florida Statutes, is amended to read:

197.502 Application for obtaining tax deed by holder of tax sale certificate; fees.—

(8) Taxes shall not be extended against parcels listed as lands available for taxes, but in each year the taxes that would have been due shall be treated as omitted years and added to the required minimum bid. Three years ~~after from~~ the day the land was offered for public sale, the land shall escheat to the county in which it is located, free and clear. All tax certificates, accrued taxes, and liens of any nature against the property shall be deemed canceled as a matter of law and of no further legal force and effect, and the clerk shall execute an escheatment a tax deed vesting title in the board of county commissioners of the county in which the land it is located.

(a) When a property escheats to the county under this subsection, the county is not subject to any liability imposed by chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. However, this subsection does not affect the rights or liabilities of any past or future owners of the escheated property and does not affect the liability of any governmental entity for the results of its actions that create or exacerbate a pollution source.

(b) The county and the Department of Environmental Protection may enter into a written agreement for the performance, funding, and reimbursement of the investigative and remedial acts necessary for a property that escheats to the county.

## Section 2. Accessory dwelling units.—

(1) The Legislature finds that the median price of homes in this state has increased steadily over the last decade and at a greater rate of increase than the median income in many urban areas. The Legislature finds that the cost of rental housing has also increased steadily and the cost often exceeds an amount that is affordable to very-low-income, low-income, or moderate-income persons and has resulted in a critical shortage of affordable rentals in many urban areas in the state. This shortage of affordable rentals constitutes a threat to the health, safety, and welfare of the residents of the state. Therefore, the Legislature finds that it serves an important public purpose to encourage the permitting of accessory dwelling units in single-family residential areas in order to increase the availability of affordable rentals for very-low-income, low-income, or moderate-income persons.

(2) As used in this section, the term:

(a) “Accessory dwelling unit” means an ancillary or secondary living unit, that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit.

(b) “Affordable rental” means that monthly rent and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for very-low-income, low-income, or moderate-income persons.

(c) “Local government” means a county or municipality.

(d) “Low-income persons” has the same meaning as in section 420.0004(9), Florida Statutes.

(e) “Moderate-income persons” has the same meaning as in section 420.0004(10), Florida Statutes.

(f) “Very-low-income persons” has the same meaning as in section 420.0004(14), Florida Statutes.

(3) Upon a finding by a local government that there is a shortage of affordable rentals within its jurisdiction, the local government may adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use.

(4) If the local government adopts an ordinance under this section, an application for a building permit to construct an accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to a very-low-income, low-income, or moderate-income person or persons.

(5) Each accessory dwelling unit allowed by an ordinance adopted under this section shall apply towards satisfying the affordable housing component of the housing element in the local government’s comprehensive plan under section 163.3177(6)(f), Florida Statutes.

(6) The Department of Community Affairs shall evaluate the effectiveness of using accessory dwelling units to address a local government’s shortage of affordable housing and report to the Legislature by January 1, 2007. The report must specify the number of ordinances adopted by a local government under this section and the number of accessory dwelling units that were created under these ordinances.

Section 3. Subsection (13) is added to section 163.3167, Florida Statutes, to read:

163.3167 Scope of act.—

(13) Each local government shall address in its comprehensive plan, as enumerated in this chapter, the water supply sources necessary to meet and achieve the existing and projected water use demand for the established planning period, considering the applicable plan developed pursuant to s. 373.0361.

Section 4. Paragraphs (a) and (c) of subsection (6) and subsection (11) of section 163.3177, Florida Statutes, are amended to read:

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

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

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses,

commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Counties are encouraged to designate rural land stewardship areas, pursuant to the provisions of paragraph (11)(d), as overlays on the future land use map. Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of public services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and shall not be limited solely by the projected population of the rural community. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. All comprehensive plans must comply with the school siting requirements of this paragraph no later than October 1, 1999. The failure by a local government to comply with these school siting requirements by October 1, 1999, will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. Amendments proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use or for adopting or amending the school-siting maps pursuant to s. 163.31776(3) are exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria that encourage the location of schools proximate to urban

residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with a population of 100,000 or fewer, an agricultural land use category shall be eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria.

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers, pursuant to s. 373.0395. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. By December 1, 2006 January 1, 2005, or the Evaluation and Appraisal Report adoption deadline established for the local government pursuant to s. 163.3191(a), whichever date occurs first, the element must consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361. The element must include a work plan, covering at least a 10-year planning period, for building water supply facilities that are identified in the element as necessary to serve existing and new development and for which the local government is responsible. The work plan shall be updated, at a minimum, every 5 years within 12 months after the approval of the revised regional water supply plan. Amendments to incorporate the work plan do not count toward the limitation on the frequency of adoption of amendments to a comprehensive plan.

(11)(a) The Legislature recognizes the need for innovative planning and development strategies which will address the anticipated demands of continued urbanization of Florida's coastal and other environmentally sensitive areas, and which will accommodate the development of less populated regions of the state which seek economic development and which have suitable land and water resources to accommodate growth in an environmentally acceptable manner. The Legislature further recognizes the substantial advantages of innovative approaches to development which may better serve to protect environmentally sensitive areas, maintain the economic viability of agricultural and other predominantly rural land uses, and provide for the cost-efficient delivery of public facilities and services.

(b) It is the intent of the Legislature that the local government comprehensive plans and plan amendments adopted pursuant to the provisions of this part provide for a planning process which allows for land use efficiencies

within existing urban areas and which also allows for the conversion of rural lands to other uses, where appropriate and consistent with the other provisions of this part and the affected local comprehensive plans, through the application of innovative and flexible planning and development strategies and creative land use planning techniques, which may include, but not be limited to, urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions, mixed-use development, and sector planning.

(c) It is the further intent of the Legislature that local government comprehensive plans and implementing land development regulations shall provide strategies which maximize the use of existing facilities and services through redevelopment, urban infill development, and other strategies for urban revitalization.

(d)1. The department, in cooperation with the Department of Agriculture and Consumer Services, the Department of Environmental Protection, water management districts, and regional planning councils, shall provide assistance to local governments in the implementation of this paragraph and rule 9J-5.006(5)(1), Florida Administrative Code. Implementation of those provisions shall include a process by which the department may authorize ~~up to five~~ local governments to designate all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use, as a rural land stewardship area within which planning and economic incentives are applied to encourage the implementation of innovative and flexible planning and development strategies and creative land use planning techniques, including those contained herein and in rule 9J-5.006(5)(1), Florida Administrative Code. Assistance may include, but is not limited to:

a. Assistance from the Department of Environmental Protection and water management districts in creating the geographic information systems land cover database and aerial photogrammetry needed to prepare for a rural land stewardship area;

b. Support for local government implementation of rural land stewardship concepts by providing information and assistance to local governments regarding land acquisition programs that may be used by the local government or landowners to leverage the protection of greater acreage and maximize the effectiveness of rural land stewardship areas; and

c. Expansion of the role of the Department of Community Affairs as a resource agency to facilitate establishment of rural land stewardship areas in smaller rural counties that do not have the staff or planning budgets to create a rural land stewardship area.

2. The department shall encourage participation by local governments of different sizes and rural characteristics in establishing and implementing rural land stewardship areas. It is the intent of the Legislature that rural land stewardship areas be used to further the following broad principles of rural sustainability: restoration and maintenance of the economic value of rural land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural resources; promotion of rural economic activ-

ity; maintenance of the viability of Florida's agricultural economy; and protection of the character of rural areas of Florida. Rural land stewardship areas may be multicounty in order to encourage coordinated regional stewardship planning.

3. A local government, in conjunction with a regional planning council, a stakeholder organization of private land owners, or another local government, shall notify ~~may apply to~~ the department in writing of its intent requesting consideration for authorization to designate a rural land stewardship area and shall describe its reasons for applying for the authorization ~~with supporting documentation regarding its compliance with criteria set forth in this section.~~

4. ~~In selecting a local government, the department shall, by written agreement:~~

a. ~~Ensure that the local government has expressed its intent to designate a rural land stewardship area pursuant to the provisions of this subsection and clarify that the rural land stewardship area is intended.~~

b. ~~Ensure that the local government has the financial and administrative capabilities to implement a rural land stewardship area.~~

5. The written notification ~~agreement~~ shall describe ~~include~~ the basis for the designation, ~~authorization and provide criteria for evaluating the success of the authorization including the extent to which~~ the rural land stewardship area enhances rural land values, controls; ~~control~~ urban sprawl; provides necessary open space for agriculture and protection of the natural environment; promotes rural economic activity; and maintains rural character and the economic viability of agriculture. ~~The department may terminate the agreement at any time if it determines that the local government is not meeting the terms of the agreement.~~

4.6. A rural land stewardship area shall be not less than 10,000 ~~50,000~~ acres and shall ~~not exceed 250,000 acres in size, shall~~ be located outside of municipalities and established urban growth boundaries, and shall be designated by plan amendment. The plan amendment designating a rural land stewardship area shall be subject to review by the Department of Community Affairs pursuant to s. 163.3184 and shall provide for the following:

a. Criteria for the designation of receiving areas within rural land stewardship areas in which innovative planning and development strategies may be applied. Criteria shall at a minimum provide for the following: adequacy of suitable land to accommodate development so as to avoid conflict with environmentally sensitive areas, resources, and habitats; compatibility between and transition from higher density uses to lower intensity rural uses; the establishment of receiving area service boundaries which provide for a separation between receiving areas and other land uses within the rural land stewardship area through limitations on the extension of services; and connection of receiving areas with the rest of the rural land stewardship area using rural design and rural road corridors.

b. Goals, objectives, and policies setting forth the innovative planning and development strategies to be applied within rural land stewardship areas pursuant to the provisions of this section.

c. A process for the implementation of innovative planning and development strategies within the rural land stewardship area, including those described in this subsection and rule 9J-5.006(5)(1), Florida Administrative Code, which provide for a functional mix of land uses and which are applied through the adoption by the local government of zoning and land development regulations applicable to the rural land stewardship area.

d. A process which encourages visioning pursuant to s. 163.3167(11) to ensure that innovative planning and development strategies comply with the provisions of this section.

e. The control of sprawl through the use of innovative strategies and creative land use techniques consistent with the provisions of this subsection and rule 9J-5.006(5)(1), Florida Administrative Code.

5.7. A receiving area shall be designated by the adoption of a land development regulation. Prior to the designation of a receiving area, the local government shall provide the Department of Community Affairs a period of 30 days in which to review a proposed receiving area for consistency with the rural land stewardship area plan amendment and to provide comments to the local government.

6.8. Upon the adoption of a plan amendment creating a rural land stewardship area, the local government shall, by ordinance, assign to the area a certain number of credits, to be known as “transferable rural land use credits,” which shall not constitute a right to develop land, nor increase density of land, except as provided by this section. The total amount of transferable rural land use credits assigned to the rural land stewardship area must correspond to the 25-year or greater projected population of the rural land stewardship area. Transferable rural land use credits are subject to the following limitations:

a. Transferable rural land use credits may only exist within a rural land stewardship area.

b. Transferable rural land use credits may only be used on lands designated as receiving areas and then solely for the purpose of implementing innovative planning and development strategies and creative land use planning techniques adopted by the local government pursuant to this section.

c. Transferable rural land use credits assigned to a parcel of land within a rural land stewardship area shall cease to exist if the parcel of land is removed from the rural land stewardship area by plan amendment.

d. Neither the creation of the rural land stewardship area by plan amendment nor the assignment of transferable rural land use credits by the local government shall operate to displace the underlying density of land uses assigned to a parcel of land within the rural land stewardship area; however, if transferable rural land use credits are transferred from a parcel



for use within a designated receiving area, the underlying density assigned to the parcel of land shall cease to exist.

e. The underlying density on each parcel of land located within a rural land stewardship area shall not be increased or decreased by the local government, except as a result of the conveyance or use of transferable rural land use credits, as long as the parcel remains within the rural land stewardship area.

f. Transferable rural land use credits shall cease to exist on a parcel of land where the underlying density assigned to the parcel of land is utilized.

g. An increase in the density of use on a parcel of land located within a designated receiving area may occur only through the assignment or use of transferable rural land use credits and shall not require a plan amendment.

h. A change in the density of land use on parcels located within receiving areas shall be specified in a development order which reflects the total number of transferable rural land use credits assigned to the parcel of land and the infrastructure and support services necessary to provide for a functional mix of land uses corresponding to the plan of development.

i. Land within a rural land stewardship area may be removed from the rural land stewardship area through a plan amendment.

j. Transferable rural land use credits may be assigned at different ratios of credits per acre according to the natural resource or other beneficial use characteristics of the land and according to the land use remaining following the transfer of credits, with the highest number of credits per acre assigned to the most ~~preserve~~ environmentally valuable land and a lesser number of credits to be assigned to open space and agricultural land.

k. The use or conveyance of transferable rural land use credits must be recorded in the public records of the county in which the property is located as a covenant or restrictive easement running with the land in favor of the county and either the Department of Environmental Protection, Department of Agriculture and Consumer Services, a water management district, or a recognized statewide land trust.

~~7.9-~~ Owners of land within rural land stewardship areas should be provided incentives to enter into rural land stewardship agreements, pursuant to existing law and rules adopted thereto, with state agencies, water management districts, and local governments to achieve mutually agreed upon conservation objectives. Such incentives may include, but not be limited to, the following:

- a. Opportunity to accumulate transferable mitigation credits.
- b. Extended permit agreements.
- c. Opportunities for recreational leases and ecotourism.
- d. Payment for specified land management services on publicly owned land, or property under covenant or restricted easement in favor of a public entity.

e. Option agreements for sale to public entities or private land conservation entities government, in either fee or easement, upon achievement of conservation objectives.

~~8.10.~~ The department shall report to the Legislature on an annual basis on the results of implementation of rural land stewardship areas authorized by the department, including successes and failures in achieving the intent of the Legislature as expressed in this paragraph. ~~It is further the intent of the Legislature that the success of authorized rural land stewardship areas be substantiated before implementation occurs on a statewide basis.~~

(e) The Legislature finds that mixed-use, high-density development is appropriate for urban infill and redevelopment areas. Mixed-use projects accommodate a variety of uses, including residential and commercial, and usually at higher densities that promote pedestrian-friendly, sustainable communities. The Legislature recognizes that mixed-use, high-density development improves the quality of life for residents and businesses in urban areas. The Legislature finds that mixed-use, high-density redevelopment and infill benefits residents by creating a livable community with alternative modes of transportation. Furthermore, the Legislature finds that local zoning ordinances often discourage mixed-use, high-density development in areas that are appropriate for urban infill and redevelopment. The Legislature intends to discourage single-use zoning in urban areas which often leads to lower-density, land-intensive development outside an urban service area. Therefore, the Department of Community Affairs shall provide technical assistance to local governments in order to encourage mixed-use, high-density urban infill and redevelopment projects.

(f) The Legislature finds that a program for the transfer of development rights is a useful tool to preserve historic buildings and create public open spaces in urban areas. A program for the transfer of development rights allows the transfer of density credits from historic properties and public open spaces to areas designated for high-density development. The Legislature recognizes that high-density development is integral to the success of many urban infill and redevelopment projects. The Legislature intends to encourage high-density urban infill and redevelopment while preserving historic structures and open spaces. Therefore, the Department of Community Affairs shall provide technical assistance to local governments in order to promote the transfer of development rights within urban areas for high-density infill and redevelopment projects.

(g)(e) The implementation of this subsection shall be subject to the provisions of this chapter, chapters 186 and 187, and applicable agency rules.

(h)(f) The department may adopt rules necessary to implement the provisions of this subsection.

Section 5. Paragraph (m) is added to subsection (1) of section 163.3187, Florida Statutes, to read:

163.3187 Amendment of adopted comprehensive plan.—

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

(m) Any local government comprehensive plan amendment establishing or implementing a rural land stewardship area pursuant to the provisions of s. 163.3177(11)(d).

Section 6. This act shall take effect July 1, 2004.

Approved by the Governor June 24, 2004.

Filed in Office Secretary of State June 24, 2004.