

House Bill No. 955

An act relating to waterfront property; amending s. 163.3177, F.S.; requiring the future land use plan element of a local comprehensive plan for a coastal county to include criteria to encourage the preservation of recreational and commercial working waterfronts; including public access to waterways within those items indicated in a recreation and open space element; amending s. 163.3178, F.S.; providing requirements for the shoreline use component of a coastal management element with respect to recreational and commercial working waterfronts; amending s. 253.002, F.S.; removing an obsolete reference; revising the responsibilities of the Department of Agriculture and Consumer Services for aquaculture activities; amending s. 253.03, F.S.; requiring the Board of Trustees of the Internal Improvement Trust Fund to encourage certain uses for sovereign submerged lands; amending s. 253.67, F.S.; clarifying the definition of "aquaculture"; amending s. 253.68, F.S.; providing authority to the board for certain aquaculture activities; providing a definition; requiring the board to establish certain guidelines by rule; amending s. 253.74, F.S.; providing penalties for certain unauthorized aquaculture activities; amending s. 253.75, F.S.; revising the responsibilities of the board with regard to certain aquaculture activities; establishing the Waterfronts Florida Program within the Department of Community Affairs; providing definitions; requiring that the program implement the Waterfronts Florida Partnership Program in coordination with the Department of Environmental Protection; authorizing the Department of Community Affairs to provide financial assistance to certain local governments; requiring the Department of Environmental Protection and water management districts to adopt programs to expedite the processing of permits for certain projects; requiring the Department of Environmental Protection, in coordination with the Fish and Wildlife Conservation Commission, to study the use of state parks for recreational boating; requiring that the department make recommendations to the Governor and the Legislature; amending s. 328.72, F.S.; revising the distribution of vessel registration fees; providing for a portion of the fees to be designated for certain trust funds; providing for a grant program for public launching facilities; providing priority consideration for certain counties; requiring certain counties to provide an annual report to the Fish and Wildlife Conservation Commission; requiring the commission to provide exemptions for certain counties; creating s. 342.07, F.S.; enunciating the state's interest in maintaining recreational and commercial working waterfronts; defining the term "recreational and commercial working waterfront"; creating ss. 197.303-197.3047, F.S.; authorizing county commissions to adopt tax deferral ordinances for recreational and commercial working waterfront properties; requiring bonding periods effective prior the deferral to remain in effect for certain properties; providing requirements for deferral notification and application for certain properties; providing a tax deferral for ad valorem taxes and non-ad valorem

assessments authorized to be deferred by ordinance and levied on recreational and commercial working waterfronts; providing certain exceptions; specifying the rate of the deferral; providing that the taxes, assessments, and interest deferred constitute a prior lien on the property; providing an application process; providing notice requirements; providing for a decision of the tax collector to be appealed to the value adjustment board; providing for calculating the deferral; providing requirements for deferred payment tax certificates; providing for the deferral to cease under certain circumstances; requiring notice to the tax collector; requiring payment of deferred taxes, assessments, and interest under certain circumstances; authorizing specified parties to make a prepayment of deferred taxes; providing for distribution of payments; providing for construction of provisions authorizing the deferments; providing penalties; providing for a penalty to be appealed to the value adjustment board; amending s. 163.3246, F.S.; revising provisions for the local government comprehensive planning certification program; providing for certain municipalities to be considered certified; requiring the state land planning agency to provide a written notice of certification; specifying components of such notice; requiring local governments to submit monitoring reports to the state land planning agency; providing exemptions from certain development-of-regional-impact reviews; providing an exemption; providing an effective date.

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

Section 1. Paragraphs (a) and (e) of subsection (6) 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; the compatibility of uses on lands adjacent to or closely proximate to military installations; 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. The future land use plan element shall include criteria to be used to achieve the compatibility of adjacent or closely proximate lands with military installations. 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. For coastal counties, the future land use element must include, without limitation, regulatory incentives and criteria that encourage the preservation of recreational and commercial working waterfronts as defined in s. 342.07. 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.

Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of adjacent or closely proximate lands with existing military installations in their future land use plan element shall transmit the update or amendment to the department by June 30, 2006.

(e) A recreation and open space element indicating a comprehensive system of public and private sites for recreation, including, but not limited to, natural reservations, parks and playgrounds, parkways, beaches and public access to beaches, open spaces, waterways, and other recreational facilities.

Section 2. Paragraph (g) of subsection (2) of section 163.3178, Florida Statutes, is amended to read:

163.3178 Coastal management.—

(2) Each coastal management element required by s. 163.3177(6)(g) shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

(g) A shoreline use component ~~that which~~ identifies public access to beach and shoreline areas and addresses the need for water-dependent and water-related facilities, including marinas, along shoreline areas. Such component must include the strategies that will be used to preserve recreational and commercial working waterfronts as defined in s. 342.07.

Section 3. Subsection (1) of section 253.002, Florida Statutes, is amended to read:

253.002 Department of Environmental Protection, water management districts, and Department of Agriculture and Consumer Services; duties with respect to state lands.—

(1) The Department of Environmental Protection shall perform all staff duties and functions related to the acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees of the Internal Improvement Trust Fund. However, upon the effective date of rules adopted pursuant to s. 373.427, a water management district created under s. 373.069 shall perform the staff duties and functions related to the review of any application for authorization to use board of trustees-owned submerged lands necessary for an activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4); and ~~effective July 1, 2000~~, the Department of Agriculture and Consumer Services shall perform the staff duties and functions related to the review of applications and compliance with ~~lease~~ conditions for use of board of trustees-owned submerged lands under authorizations or leases issued pursuant to ss. 253.67-253.75 and 597.010. Unless expressly prohibited by law, the board of trustees may delegate to the department any statutory duty or obligation relating to the acquisition, administration, or disposition of lands, title to which is or will be vested in the board of trustees. The board of trustees may also delegate to any water management district created under s. 373.069 the authority to take final agency action, without

any action on behalf of the board, on applications for authorization to use board of trustees-owned submerged lands for any activity regulated under part IV of chapter 373 for which the water management district has permitting responsibility as set forth in an operating agreement adopted pursuant to s. 373.046(4). This water management district responsibility under this subsection shall be subject to the department's general supervisory authority pursuant to s. 373.026(7). The board of trustees may also delegate to the Department of Agriculture and Consumer Services the authority to take final agency action on behalf of the board on applications to use board of trustees-owned submerged lands for any activity for which that department has responsibility pursuant to ss. 253.67-253.75 and 597.010. However, the board of trustees shall retain the authority to take final agency action on establishing any areas for leasing, new leases, expanding existing lease areas, or changing the type of lease activity in existing leases. Upon issuance of an aquaculture lease or other real property transaction relating to aquaculture, the Department of Agriculture and Consumer Services must send a copy of the document and the accompanying survey to the Department of Environmental Protection.

Section 4. Subsection (15) of section 253.03, Florida Statutes, is renumbered as subsection (16), and a new subsection (15) is added to said section to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(15) The Board of Trustees of the Internal Improvement Trust Fund shall encourage the use of sovereign submerged lands for water-dependent uses and public access.

Section 5. Subsection (1) of section 253.67, Florida Statutes, is amended to read:

253.67 Definitions.—As used in ss. 253.67-253.75:

(1) “Aquaculture” means the cultivation of aquatic organisms and associated activities, including, but not limited to, grading, sorting, transporting, harvesting, holding, storing, growing, and planting.

Section 6. Subsection (1) and paragraph (a) of subsection (2) of section 253.68, Florida Statutes, are amended to read:

253.68 Authority to lease or use submerged lands ~~land~~ and water column for aquaculture activities.—

(1) To the extent that it is not contrary to the public interest, and subject to limitations contained in ss. 253.67-253.75, the board of trustees may lease or authorize the use of submerged lands to which it has title for the conduct of aquaculture activities and grant exclusive use of the bottom and the water column to the extent required by such activities. “Aquaculture activities” means any activities, as determined by board rule, related to the production of aquacultural products, including, but not limited to, producing, storing, handling, grading, sorting, transporting, harvesting, and aquaculture support docking. Such leases or authorizations may permit ~~authorize~~ use of the

submerged land and water column for either commercial or experimental purposes. However, a resolution of objection adopted by a majority of the county commission of a county within whose boundaries the proposed leased area would lie, if the boundaries were extended to the extent of the interest of the state, may be filed with the board of trustees within 30 days of the date of the first publication of notice as required by s. 253.70. Prior to the granting of any such leases or authorizations, the board shall by rule establish and publish ~~a list of~~ guidelines to be followed when considering applications for lease or authorization. Such guidelines shall be designed to protect the public's interest in submerged lands and the publicly owned water column.

(2)(a) The Legislature finds that the state's ability to supply fresh seafood and other aquaculture products has been diminished by a combination of factors, including a diminution of the resources and restrictions on the harvest of certain marine species. The Legislature declares that it is in the state's economic, resource enhancement, and food production interests to promote aquaculture production of food and nonfood aquatic species by facilitating the review and approval processes for authorizing the use of leasing sovereignty submerged land or the water column; simplifying environmental permitting; supporting educational, research, and demonstration programs; and assisting certain local governments to develop aquaculture as a means to promote economic development. The Legislature declares that aquaculture shall be recognized as a practicable resource management alternative to produce marine aquaculture products, to protect and conserve natural resources, to reduce competition for natural stocks, and to augment and restore natural populations. Therefore, for the purpose of this section, the Legislature declares that aquaculture is in the public interest.

Section 7. Section 253.74, Florida Statutes, is amended to read:

253.74 Penalties.—

(1) Any person who conducts aquaculture activities in excess of those authorized by ~~lease agreement with~~ the board or who conducts such activities on state-owned submerged lands without having previously obtained an authorization from the board commits ~~leased the same shall be guilty of a misdemeanor and shall be~~ subject to imprisonment for not more than 6 months or fine of not more than \$1,000, or both. In addition to such fine and imprisonment, all works, improvements, animal and plant life involved in the project, may be forfeited to the state.

(2) Any person who is found by the department to have violated the provisions of chapter 403 or chapter 597 shall be subject to having his or her lease of state-owned submerged lands canceled.

Section 8. Subsection (1) of section 253.75, Florida Statutes, is amended to read:

253.75 Studies and recommendations by the department and the Fish and Wildlife Conservation Commission; designation of recommended traditional and other use zones; supervision of aquaculture operations.—

(1) Prior to the granting of any form of authorization lease under this act, the board shall request comments by the Fish and Wildlife Conservation Commission when the application relates to bottom land covered by fresh or salt water. Such comments shall be based on such factors as an assessment of the probable effect of the proposed use lease on the conservation of fish or wildlife or other programs under the constitutional or statutory authority of the Fish and Wildlife Conservation Commission.

Section 9. Waterfronts Florida Program.—

(1) There is established within the Department of Community Affairs the Waterfronts Florida Program to provide technical assistance and support to communities in revitalizing waterfront areas in this state.

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

(a) “Waterfront community” means a municipality or county that is required to prepare a coastal element for its local government comprehensive plan.

(b) “Recreational and commercial working waterfront” means a parcel or parcels of real property that provide access for water-dependent commercial activities or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water.

(3) The purpose of this program is to provide technical assistance, support, training, and financial assistance to waterfront communities in their efforts to revitalize waterfront areas. The program shall direct its efforts on the following priority concerns:

(a) Protecting environmental and cultural resources;

(b) Providing public access;

(c) Mitigating hazards; and

(d) Enhancing the viable traditional economy.

(4) The program is responsible for:

(a) Implementing the Waterfronts Florida Partnership Program. The department, in coordination with the Department of Environmental Protection, shall develop procedures and requirements governing program eligibility, application procedures, and application review. The department may provide financial assistance to eligible local governments to develop local plans to further the purpose of the program. In recognition of limited funding, the department may limit the number of local governments assisted by

the program based on the amount of funding appropriated to the department for the purpose of the program.

(b) Serving as a source for information and technical assistance for Florida's waterfront communities in preserving traditional recreational and commercial working waterfronts.

Section 10. The Department of Environmental Protection and, as appropriate, the water management districts created by chapter 373, Florida Statutes, 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.

Section 11. The Department of Environmental Protection, in coordination with the Fish and Wildlife Conservation Commission, shall undertake a study evaluating the current use of state parks for purposes of recreational boating and identify opportunities for increasing recreational boating access within the state park system. The study must include recommendations regarding the most appropriate locations for expanding existing recreational boating access and must identify state parks where new recreational boating access may be located. The environment and wildlife values shall be taken into consideration but shall not dictate the final outcome. The report must contain estimates of the costs necessary to expand and construct additional recreational boating facilities at specific state parks. The department shall submit a report summarizing its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006.

Section 12. Subsection (15) of section 328.72, Florida Statutes, is amended to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(15) DISTRIBUTION OF FEES.—Except for the first \$2, \$1 of, which shall be remitted to the state for deposit into the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission and \$1 of which shall be remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund a grant program for public launching facilities, pursuant to s. 327.47, giving priority consideration to counties with more than 35,000 registered vessels, Moneys designated for the use of the counties, as specified in subsection (1), shall be distributed by the tax collector to the board of county commissioners for use as provided in this section. Such moneys to be returned to the counties are for the sole purposes of providing recreational channel marking and public launching facilities and other boating-related activities, for removal of vessels and floating structures deemed a hazard to public safety and health for failure to comply with s. 327.53, and for manatee and marine mammal protection and recovery. Counties that demonstrate through an annual detailed accounting report of vessel registration revenues that at least \$1 of the registration fees were spent on boating infrastructure shall only be required to transfer the first \$1 of the fees to the Save the Manatee Trust Fund. This report shall be provided to the Fish and Wildlife Conservation Commission no later than

November 1 of each year. The commission shall provide an exemption letter to the department by December 15 of each year for qualifying counties.

Section 13. Section 342.07, Florida Statutes, is created to read:

342.07 Recreational and commercial working waterfronts; legislative findings; definitions.—

(1) The Legislature recognizes that there is an important state interest in facilitating boating access to the state's navigable waters. This access is vital to recreational users and the marine industry in the state, to maintaining or enhancing the \$14 billion economic impact of boating in the state, and to ensuring continued access to all residents and visitors to the navigable waters of the state. The Legislature recognizes that there is an important state interest in maintaining viable water-dependent support facilities, such as boat hauling and repairing and commercial fishing facilities, and in maintaining the availability of public access to the navigable waters of the state. The Legislature further recognizes that the waterways of the state are important for engaging in commerce and the transportation of goods and people upon such waterways and that such commerce and transportation is not feasible unless there is access to and from the navigable waters of the state through recreational and commercial working waterfronts.

(2) As used in this section, the term "recreational and commercial working waterfront" means a parcel or parcels of real property that provide access for water-dependent commercial activities or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. As used in this section, the term "vessel" has the same meaning as in s. 327.02(37). Seaports are excluded from the definition.

Section 14. Sections 197.303, 197.304, 197.3041, 197.3042, 197.3043, 197.3044, 197.3045, 197.3046, and 197.3047, Florida Statutes, are created to read:

197.303 Ad valorem tax deferral for recreational and commercial working waterfront properties.—

(1) The board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow for ad valorem tax deferrals for recreational and commercial working waterfront properties if the owners are engaging in the operation, rehabilitation, or renovation of such properties in accordance with guidelines established in this section.

(2) The board of county commissioners or the governing authority of the municipality by ordinance may authorize the deferral of ad valorem taxation

and non-ad valorem assessments for recreational and commercial working waterfront properties.

(3) The ordinance shall designate the type and location of working waterfront property for which deferrals may be granted, which may include any property meeting the provisions of s. 342.07(2), which property may be further required to be located within a particular geographic area or areas of the county or municipality.

(4) The ordinance must specify that such deferrals apply only to taxes levied by the unit of government granting the deferral. The deferrals do not apply, however, to taxes or non-ad valorem assessments defined in s. 197.3632(1)(d) levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution.

(5) The ordinance must specify that any deferral granted remains in effect regardless of any change in the authority of the county or municipality to grant the deferral. In order to retain the deferral, however, the use and ownership of the property as a working waterfront must be maintained over the period for which the deferral is granted.

(6)(a) If an application for deferral is granted on property that is located in a community redevelopment area, the amount of taxes eligible for deferral shall be reduced, as provided for in paragraph (b), if:

1. The community redevelopment agency has previously issued instruments of indebtedness that are secured by increment revenues on deposit in the community redevelopment trust fund; and

2. Those instruments of indebtedness are associated with the real property applying for the deferral.

(b) If the provisions of paragraph (a) apply, the tax deferral shall not apply to an amount of taxes equal to the amount that must be deposited into the community redevelopment trust fund by the entity granting the deferral based upon the taxable value of the property upon which the deferral is being granted. Once all instruments of indebtedness that existed at the time the deferral was originally granted are no longer outstanding or have otherwise been defeased, the provisions of this paragraph shall no longer apply.

(c) If a portion of the taxes on a property were not eligible for deferral because of the provisions of paragraph (b), the community redevelopment agency shall notify the property owner and the tax collector 1 year before the debt instruments that prevented said taxes from being deferred are no longer outstanding or otherwise defeased.

(d) The tax collector shall notify a community redevelopment agency of any tax deferral that has been granted on property located within the community redevelopment area of that agency.

(e) Issuance of debt obligation after the date a deferral has been granted shall not reduce the amount of taxes eligible for deferral.

197.304 Tax deferral for recreational and commercial working waterfronts.—

(1) Any property owner in a jurisdiction that has adopted a tax deferral ordinance pursuant to s. 197.303 that owns a recreational and commercial working waterfront facility as defined in s. 342.07 may elect to defer payment of those ad valorem taxes and non-ad valorem assessments designated in the ordinance authorizing the deferral by filing an annual application for tax deferral with the county tax collector on or before January 31 following the year in which the taxes and non-ad valorem assessments are assessed. The applicant has the burden to affirmatively demonstrate compliance with the requirements of this section.

(2) Approval of an application for tax deferral shall defer that portion of the combined total of ad valorem taxes and any non-ad valorem assessments that are authorized to be deferred by the ordinance authorizing the deferral.

(3) A tax deferral may not be granted if:

(a) The total amount of deferred taxes, non-ad valorem assessments, and interest plus the total amount of all other unsatisfied liens on the property exceeds 85 percent of the assessed value of the property; or

(b) The primary financing on the property is for an amount that exceeds 70 percent of the assessed value of the property.

(4) The amount of taxes, non-ad valorem assessments, and interest deferred shall accrue interest at a rate equal to the semiannually compounded rate of one-half of 1 percent plus the average yield to maturity of the long-term fixed-income portion of the Florida Retirement System investments as of the end of the quarter preceding the date of the sale of the deferred payment tax certificates; however, the interest rate may not exceed 9.5 percent.

(5) The taxes, non-ad valorem assessments, and interest deferred pursuant to this section constitute a prior lien and shall attach as of the date and in the same manner and be collected as other liens for taxes, as provided for under this chapter, but such deferred taxes, non-ad valorem assessments, and interest shall only be due, payable, and delinquent as provided in ss. 197.303-197.3047.

197.3041 Tax deferral for recreational and commercial working waterfronts; application.—

(1) The application for deferral must be made annually upon a form prescribed by the department and furnished by the county tax collector. The application form must be signed upon oath by the applicant before an officer authorized by the state to administer oaths. The tax collector may require the applicant to submit any other evidence and documentation as deemed necessary by the tax collector in considering the application. The application form must provide notice to the applicant of the manner in which interest is computed. Each application form must contain an explanation of the conditions to be met for approval and the conditions under which deferred

taxes and interest become due, payable, and delinquent. Each application must clearly state that all deferrals pursuant to ss. 197.303-197.3047 constitute a lien on the applicant's property.

(2)(a) The tax collector shall consider and render his or her findings, determinations, and decision on each annual application for a tax deferral for recreational and commercial working waterfronts within 45 days after the date the application is filed. The tax collector shall exercise reasonable discretion based upon applicable information available under this section. The determinations and findings of the tax collector as provided for in this paragraph are not quasi judicial and are subject exclusively to review by the value adjustment board as provided by this section. A tax collector who finds that the applicant is entitled to the tax deferral shall approve the application and file the application in the permanent records. A tax collector who finds that the applicant is not entitled to the deferral shall send a notice of disapproval within 45 days after the date the application is filed, giving reasons for the disapproval to the applicant. The notice must be sent by personal delivery or registered mail to the mailing address given by the applicant in the manner in which the original notice thereof was served upon the applicant and must be filed among the permanent records of the tax collector's office. The original notice of disapproval sent to the applicant shall advise the applicant of the right to appeal the decision of the tax collector to the value adjustment board and inform the applicant of the procedure for filing such an appeal.

(b) An appeal of the decision of the tax collector to the value adjustment board must be in writing on a form prescribed by the department and furnished by the tax collector. The appeal must be filed with the value adjustment board within 20 days after the applicant's receipt of the notice of disapproval, and the board must approve or disapprove the appeal within 30 days after receipt. The value adjustment board shall review the application and the evidence presented to the tax collector upon which the applicant based his or her claim for tax deferral and, at the election of the applicant, shall hear the applicant in person, or by agent on the applicant's behalf, on his or her right to the tax deferral. The value adjustment board shall reverse the decision of the tax collector and grant a tax deferral to the applicant if, in its judgment, the applicant is entitled to the tax deferral or shall affirm the decision of the tax collector. Action by the value adjustment board is final unless the applicant or tax collector or other lienholder, within 15 days after the date of disapproval of the application by the board, files in the circuit court of the county in which the property is located a de novo proceeding for a declaratory judgment or other appropriate proceeding.

(3) Each application must contain a list of, and the current value of, all outstanding liens on the applicant's property.

(4) For approved applications, the date of receipt by the tax collector of the application for tax deferral shall be used in calculating taxes due and payable net of discounts for early payment.

(5) If such proof has not been furnished with a prior application, each applicant shall furnish proof of fire and extended coverage insurance in an

amount that is in excess of the sum of all outstanding liens and deferred taxes and interest with a loss payable clause to the county tax collector.

(6) The tax collector shall notify the property appraiser in writing of those parcels for which taxes have been deferred.

(7) The property appraiser shall promptly notify the tax collector of changes in ownership or use of properties that have been granted a tax deferral.

197.3042 Deferred payment tax certificates.—

(1) The tax collector shall notify each local governing body of the amount of taxes and non-ad valorem assessments deferred which would otherwise have been collected for such governing body. The county shall then, at the time of the tax certificate sale held pursuant to s. 197.432, strike each certificate off to the county. Certificates issued pursuant to this section are exempt from the public sale of tax certificates held pursuant to s. 197.432.

(2) The certificates so held by the county shall bear interest at a rate equal to the semiannually compounded rate of 0.5 percent plus the average yield to maturity of the long-term fixed-income portion of the Florida Retirement System investments as of the end of the quarter preceding the date of the sale of the deferred payment tax certificates; however, the interest rate may not exceed 9.5 percent.

197.3043 Change in use or ownership of property.—

(1) If there is a change in use or ownership of the tax-deferred property such that the owner is no longer entitled to claim the property as a recreational or commercial working waterfront facility, or there is a change in the legal or beneficial ownership of the property, or the owner fails to maintain the required fire and extended insurance coverage, the total amount of deferred taxes and interest for all previous years becomes due and payable November 1 of the year in which the change in use or ownership occurs or on the date failure to maintain insurance occurs, and is delinquent on April 1 of the year following the year in which the change in use or ownership or failure to maintain insurance occurs.

(2) Whenever the property appraiser discovers that there has been a change in the use or ownership of the property that has been granted a tax deferral, the property appraiser shall notify the tax collector in writing of the date such change occurs, and the tax collector shall collect any taxes and interest due or delinquent.

(3) During any year in which the total amount of deferred taxes, interest, and all other unsatisfied liens on the property exceeds 85 percent of the assessed value of the property, the tax collector shall immediately notify the owner of the property on which taxes and interest have been deferred that the portion of taxes and interest which exceeds 85 percent of the assessed value of the property is due and payable within 30 days after receipt of the notice. Failure to pay the amount due shall cause the total amount of deferred taxes and interest to become delinquent.

(4) If deferred taxes become delinquent under this chapter, on or before June 1 following the date the taxes become delinquent, the tax collector shall sell a tax certificate for the delinquent taxes and interest in the manner provided by s. 197.432.

197.3044 Prepayment of deferred taxes.—

(1) All or part of the deferred taxes and accrued interest may at any time be paid to the tax collector by:

(a) The owner of the property.

(b) The next of kin of the owner, heir of the owner, child of the owner, or any person having or claiming a legal or equitable interest in the property, if no objection is made by the owner within 30 days after the tax collector notifies the owner of the fact that such payment has been tendered.

(2) Any partial payment made pursuant to this section shall be applied first to accrued interest.

197.3045 Distribution of payments.—When any deferred taxes or interest is collected, the tax collector shall maintain a record of the payment, setting forth a description of the property and the amount of taxes or interest collected for the property. The tax collector shall distribute payments received in accordance with the procedures for distributing ad valorem taxes or redemption moneys as prescribed in this chapter.

197.3046 Construction.—Sections 197.303-197.3047 do not prevent the collection of personal property taxes that become a lien against tax-deferred property, defer payment of special assessments to benefited property other than those specifically allowed to be deferred, or affect any provision of any mortgage or other instrument relating to property requiring a person to pay ad valorem taxes or non-ad valorem assessments.

197.3047 Penalties.—

(1) The following penalties shall be imposed on any person who willfully files information required under ss. 197.303-197.3047 which is incorrect:

(a) The person shall pay the total amount of taxes and interest deferred, which amount shall immediately become due;

(b) The person shall be disqualified from filing a tax deferral application for the next 3 years; and

(c) The person shall pay a penalty of 25 percent of the total amount of taxes and interest deferred.

(2) Any person against whom the penalties prescribed in this section have been imposed may appeal the penalties imposed to the value adjustment board within 30 days after the penalties are imposed.

Section 15. Subsections (10), (11), and (12) of section 163.3246, Florida Statutes, are renumbered as subsections (12), (13), and (14), respectively, and new subsections (10) and (11) are added to said section to read:

163.3246 Local government comprehensive planning certification program.—

(10) Notwithstanding subsections (2), (4), (5), (6), and (7), any municipality designated as a rural area of critical economic concern pursuant to s. 288.0656 which is located within a county eligible to levy the Small County Surtax under s. 212.055(3) shall be considered certified during the effectiveness of the designation of rural area of critical economic concern. The state land planning agency shall provide a written notice of certification to the local government of the certified area, which shall be considered final agency action subject to challenge under s. 120.569. The notice of certification shall include the following components:

(a) The boundary of the certification area.

(b) A requirement that the local government submit either an annual or biennial monitoring report to the state land planning agency according to the schedule provided in the written notice. The monitoring report shall, at a minimum, include the number of amendments to the comprehensive plan adopted by the local government, the number of plan amendments challenged by an affected person, and the disposition of those challenges.

(11) If the local government of an area described in subsection (10) does not request that the state land planning agency review the developments of regional impact that are proposed within the certified area, an application for approval of a development order within the certified area shall be exempt from review under s. 380.06, subject to the following:

(a) Concurrent with filing an application for development approval with the local government, a developer proposing a project that would have been subject to review pursuant to s. 380.06 shall notify in writing the regional planning council with jurisdiction.

(b) The regional planning council shall coordinate with the developer and the local government to ensure that all concurrency requirements as well as federal, state, and local environmental permit requirements are met.

Section 16. Paragraph (l) is added to subsection (24) of section 380.06, Florida Statutes, to read:

380.06 Developments of regional impact.—

(24) STATUTORY EXEMPTIONS.—

(l) The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, is exempt from this section.

Section 17. This act shall take effect January 1, 2006.

Approved by the Governor June 8, 2005.

Filed in Office Secretary of State June 8, 2005.