

## CHAPTER 2018-159

### Committee Substitute for Committee Substitute for House Bill No. 1173

An act relating to lands used for governmental purposes; amending s. 253.025, F.S.; providing conditions under which specified appraisal standards are required, and such appraisal be provided to the seller, for the acquisition of lands for the purpose of buffering military installations against encroachment; authorizing such lands to be leased or conveyed for less than appraised value to military installations; providing requirements for such leasing and conveyance; authorizing the use of certain funding sources for the immediate acquisition of lands that prevent or satisfy private property rights claims within areas of critical state concern; authorizing the board of trustees to waive certain procedures for land acquisition for such lands; providing procedures for estimating the value of such lands under certain conditions; amending s. 259.045, F.S.; authorizing the Department of Environmental Protection to acquire certain conservation and recreation lands to prevent or satisfy private property rights claims within areas of critical state concern; providing procedures for estimating the value of such lands under certain conditions; amending s. 259.105, F.S.; including natural disaster and flood mitigation as criteria for assessing certain projects and land acquisitions under the Florida Forever Act; amending s. 288.980, F.S.; requiring the Department of Economic Opportunity to annually request state military installations to provide a certain list before a specified date; requiring the department to submit such list to the Florida Defense Support Task Force; requiring the task force to annually review such list and provide certain recommendations by a specified date; requiring the department to annually submit a certain list to the Board of Trustees of the Internal Improvement Trust Fund, for certain purposes; providing requirements for the annual list; revising the definition of the term “nonconservation lands”; amending s. 380.0555, F.S.; revising the legislative intent of the Apalachicola Bay Area Protection Act; amending s. 380.0666, F.S.; authorizing land authorities to contribute tourist impact tax revenues to counties to pay for project costs relating to the construction, redevelopment, and preservation of certain affordable housing; amending s. 380.508, F.S.; requiring that urban greenways and open space projects undertaken, coordinated, or funded by the Florida Communities Trust meet certain criteria; amending s. 380.510, F.S.; conforming a cross-reference; providing an effective date.

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

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

## 253.025 Acquisition of state lands.—

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

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

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

1. Convey the land at less than appraised value to the military installation;

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

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

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

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

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

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

(c) Will be developed or otherwise lost to potential public ownership, or for which federal matching funds will be lost, by the time the land can be

purchased under the program within which the land is listed for acquisition;  
or

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

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

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

(24) For acquisitions directed pursuant to subsection (22) or subsection (23):

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

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

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

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

shall make recommendations to the board with respect to the purchase of the fee or any lesser interest in any such lands that are:

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

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

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

259.105 The Florida Forever Act.—

(4) It is the intent of the Legislature that projects or acquisitions funded pursuant to paragraphs (3)(a) and (b) contribute to the achievement of the following goals, which shall be evaluated in accordance with specific criteria and numeric performance measures developed pursuant to s. 259.035(4):

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

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

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

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

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

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

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

Florida Forever projects and acquisitions funded pursuant to paragraph (3)(c) shall be measured by goals developed by rule by the Florida Communities Trust Governing Board created in s. 380.504.

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

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

(2)

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

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

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

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

a. A legal description of the land and its property identification number;

b. A detailed map of the land; and

c. A management and monitoring agreement to ensure the land serves a base buffering purpose ~~The department may annually submit a list to the Board of Trustees of the Internal Improvement Trust Fund of nonconservation lands to acquire, subject to a specific appropriation, through fee simple purchase or through perpetual, less-than-fee interest purchase, for the purpose of buffering a military installation against encroachment. The Board of Trustees of the Internal Improvement Trust Fund shall also consider the recommendations of the Florida Defense Support Task Force, created in s. 288.987, when selecting nonconservation lands to purchase for the purpose of securing and protecting a military installation against encroachment. This paragraph does not preclude the acquisition of such lands by local governments through fee simple purchase or through perpetual, less-than-fee interest purchase, for the purpose of buffering a military installation against encroachment.~~

(c) As used in this subsection, the term “nonconservation lands” means lands acquired for uses other than conservation, outdoor resource-based

recreation, or archaeological or historic preservation not subject to acquisition by the Florida Forever Program.

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

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

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

(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.

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

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:

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

2.(b) 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 ~~prior to~~ removal of the designation;

3.(e) 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 ~~shall~~ 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.(d) 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.

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

380.508 Projects; development, review, and approval.—

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

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

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

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

380.510 Conditions of grants and loans.—

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

(d) If any essential term or condition of a grant or loan is violated, title to all interest in real property acquired with state funds shall be conveyed or revert to the Board of Trustees of the Internal Improvement Trust Fund. The trust shall treat such property in accordance with s. 380.508(4)(g) ~~s. 380.508(4)(f)~~.

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

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

Approved by the Governor April 6, 2018.

Filed in Office Secretary of State April 6, 2018.