

## **Florida Growth Management Bills Start to Become Law: Effective Immediately - Which Is Great News for Florida Land Developers**

May 03, 2011 by [Rosa Schechter](#)

Last week, the wave of legislation designed to lessen Florida's involvement in land development and thereby free the economy to move forward with real estate development began to finalize as [Governor Scott signed HB 7001 into law](#) on April 27, 2011. ([Read the law and follow its history from inception to effective date here.](#))

### ***What Does the New Law Mean to Florida Land Development?***

HB 7001 was effective as law the minute that the Governor signed on the dotted line. Which means that today, among other things, **local governments** -- and not the State of Florida -- are now the governing bodies deciding how much land developers must pay for things like upgrading roads.

The new law also creates standards for **urban areas**. These are designated by state law; "[dense urban land area](#)" is defined by Section 163.3164(34) of the Florida Statutes.

Effective last week, the Growth Management Law also changed **land-use planning in the State of Florida**. Now, instead of going to the Florida Department of Community Affairs with land-use plan changes for the DCA's okay, developers will go to local governments for their approval of the alterations.

### ***Details Available from the State of Florida Online If You Want to Read the Details***

1. The [summary analysis of the new law provided by the Florida House of Representative's Economic Affairs Committee](#) provides the following ([you can read the full 14 page legislative analysis here](#)):

This bill reenacts portions of existing law most closely related to comprehensive planning and land development amended by Chapter 2009-96, Laws of Florida, (Committee Substitute for Committee Substitute for Senate Bill 360) passed by the Legislature in 2009. Since that time, the law has been the subject of ongoing litigation regarding its constitutionality; specifically, regarding allegations that it violated the single subject and mandates provisions of the Florida Constitution. This litigation has created uncertainty among local governments, developers, and private interests regarding the provisions of law amended by CS/CS/SB 360.

This bill does not change current law, but simply reenacts the portions of existing law most closely related to comprehensive planning and land development amended by CS/CS/SB 360, in an effort to remove uncertainty and address alleged constitutional defects relating to the single subject requirement in Article III, section 6, of the Florida Constitution.

In an effort to remove uncertainty and address allegations that CS/CS/SB 360 violated the mandates provision of the Florida Constitution found in Article VII, section 18(a), this bill reenacts provisions of existing law that have been challenged in court as an unconstitutional mandate on counties and municipalities. To the extent any of those provisions are held by a court of last resort as unconstitutional, a two-thirds vote of the membership of each house would be necessary to have the

legislation binding on counties and municipalities, in the absence of one of the other conditions provided for in Article VII, section 18, of the Florida Constitution.

The bill states that it fulfills an important state interest. The portions of existing law reenacted by this bill address several areas related to comprehensive planning and land development including: Urban Service Areas and Dense Urban Land Areas (DULAs). Transportation Concurrency. Developments of Regional Impact (DRIs). Financial Feasibility Requirements. School Concurrency. Permit Extensions. Impact Fee Notice and Concurrent Zoning. Dispute Resolution.

See the “Current Situation” section for a detailed analysis of the portions of existing law reenacted by this bill.

This bill is to take effect upon becoming law, and those portions amended or created by Chapter 2009-96, Laws of Florida, are retroactive to June 1, 2009. If a court of last resort finds retroactive application unconstitutional, this bill is to apply prospectively from the date it becomes law.

2. [Urban Areas in Florida, designated by the Florida Department of Community Affairs for 2010, are as follows](#) (go to the site for the full listing):

Pursuant to Section 163.3164(34), Florida Statutes, the Florida Legislative Office of Economic and Demographic Research transmitted to the Department of Community Affairs on June 30, 2010, a list of counties and municipalities qualifying as dense urban land areas. The Department posted this list on its Web site on July 7, 2010.

The jurisdictions listed below have been identified by the Legislative Office of Economic and Demographic Research based on April 1, 2009 population estimates and the statutory definition as follows (see Section 163.3164, Florida Statutes - Local Government Comprehensive Planning and Land Development Regulation Act; definitions ). Dense urban land area is defined by Section 163.3164(34), Florida Statutes to mean:

- a. A municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;
- b. A county, including the municipalities located therein, which has an average of at least 1,000 people per square mile of land area; or
- c. A county, including the municipalities located therein, which has a population of at least 1 million.

An asterisk (\*) indicates that the municipality is included based on conditions (b) or (c) and may or may not meet condition (a) alone.