

Excerpts from Section 380.0552, Florida Keys Area; protection and designation as area of critical state concern

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

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

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

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

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

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

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

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

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

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

(i) Protect and improve the nearshore water quality of the Florida Keys through the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(1) and 403.086(10), as applicable.

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

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

(4) **REMOVAL OF DESIGNATION.**—

(a) The designation of the Florida Keys Area as an area of critical state concern under this section may be recommended for removal upon fulfilling the legislative intent under

subsection (2) and completion of all the work program tasks specified in rules of the Administration Commission.

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

1. All of the work program tasks have been completed, including construction of, operation of, and connection to central wastewater management facilities pursuant to s. 403.086(10) and upgrade of onsite sewage treatment and disposal systems pursuant to s. 381.0065(4)(1);
2. All local comprehensive plans and land development regulations and the administration of such plans and regulations are adequate to protect the Florida Keys Area, fulfill the legislative intent specified in subsection (2), and are consistent with and further the principles guiding development; and
3. A local government has adopted a resolution at a public hearing recommending the removal of the designation.

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

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

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

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

(9) MODIFICATION TO PLANS AND REGULATIONS.—

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

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

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

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

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

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