

UPDATED: House Bill 59 Creates Delays on the Filing of New Comprehensive Plan Amendments

July 19, 2021

On August 6, 2021, DEO updated their guidance to redefine the term “initiated” to also include “the Department will consider a proposed plan amendment to be 'initiated' on the date...[t]he local government planning authority deems complete a submitted application for a change to the comprehensive plan...prior to July 2, 2021.” This change will allow many pending plan amendments that were placed in limbo to now move forward. Please contact the authors for more details as this is an evolving situation.

On June 29, 2021, Florida Gov. Ron DeSantis signed [House Bill 59](#) into law as chapter 2021-195, which included a requirement for all local governments to adopt a property rights element in their comprehensive land use plan. Effective July 1, HB 59 mandated that the next initiated amendment to the comprehensive plan must address the property rights element requirement. This essentially means that any new real estate development that requires a comprehensive plan amendment is under a moratorium until the local government adopts the property rights element into its comprehensive plan.

Florida’s land planning agency, the Department of Economic Opportunity, has weighed in on its interpretation of the law. The DEO has stated in a notice to local governments that any comprehensive land use plan amendments transmitted to the department, that were not already heard by the local government’s local planning agency by July 1, would be sent back to the local government until a property rights element is adopted or included in the amendment.

The DEO has also stated that the property rights element must be its own element in the comprehensive plan, and will view any amendment based on the statute as acceptable, but will look closely for amendment language that varies from the statutory language.

The list of general principles that must be addressed as part of that new property rights element that were included in HB 59 are:

The following rights shall be considered in local decisionmaking:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.

If you have any questions about how the implementation of HB 59 affects your development, please contact the author of this alert or any member of the Carlton Fields Government Law and Consulting Practice.

Authored By



Kenneth A. Tinkler



Aaron C. Dunlap

Related Practices

[Real Estate](#)

[Banking, Commercial, and Consumer Finance](#)

[Government Law & Consulting](#)

[Development](#)

Related Industries

Real Estate

Banking, Commercial, and Consumer Finance

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.