

***HB 7103 Goes Into Effect Providing for Prevailing Party Attorneys Fees in
Comp Plan Challenges to Local Development Orders***

On June 28, 2019, Governor Ron DeSantis signed House Bill 7103 which went into effect immediately. The bill contains a number of amendments relating to land use and comprehensive plan requirements, including requirements that local governments must review applications for permits within specified time frames, and that comprehensive plans adopted after January 1, 2019 must incorporate existing development orders.

Perhaps one of the most significant amendments relates to the standing provisions found in Florida Statutes Section 163.3215. That section establishes the standing of parties who choose to enforce local comprehensive plans through development order challenges. F.S. §163.3215(3):

Any aggrieved or adversely affected party may maintain a de novo action for declaratory, injunctive, or other relief against any local government to challenge any decision of such local government granting or denying an application for, or to prevent such local government from taking any action on, a development order, as defined in s. [163.3164](#), which materially alters the use or density or intensity of use on a particular piece of property which is not consistent with the comprehensive plan adopted under this part. The de novo action must be filed no later than 30 days following rendition of a development order or other written decision, or when all local administrative appeals, if any, are exhausted, whichever occurs later.

With the adoption of HB 7103, it now provides that the prevailing party in such a development order challenge is entitled to recover reasonable attorney's fees and costs incurred in challenging or defending the order, including reasonable appellate attorney's fees and costs. This particular provision was cited by many community activists as having a chilling effect on citizen challenges to approved developments. However, there are just as many who would argue that the legitimate challenges will continue to be filed, but those who have been using §163.3215 as a tactic to kill projects through delay will have to think twice before risking the payment of developers' attorney's fees if a specious claim is denied. It also provides for the use of the summary procedure in FS §51.011 to expedite cases if either party requests it.

A note to the reader: This article is intended to provide general information and is not intended to be a substitute for competent legal advice. Competent legal counsel should be consulted if you have questions regarding compliance with the law.

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