



HB 7103 FACT PAGE

On May 3, 2019, the last scheduled day of the 2019 Legislative Session, an amendment to House Bill 7103 was approved that amends Section 163.3215(8)(c), Florida Statutes by including the following provision:

The prevailing party in a challenge to a development order under subsection (3) is entitled to recover reasonable attorney fees and costs incurred in challenging or defending the order, including reasonable appellate attorney fees and costs.

Previously, Section 163.3215 – Florida’s consistency challenge statute - did not subject non-prevailing parties to the sanction of being required to pay prevailing party attorney fees simply for failing on a good-faith claim with a valid basis in fact and law. This is significant because this statute is the ONLY mechanism under which citizens in Florida can challenge development orders approved by their local government that are not “consistent” with the local government’s comprehensive plan.

The 2011 Community Planning Act removed the ability of the state to file consistency challenges, in effect leaving certain impacted citizens the only remaining party likely to ensure that local governments are accountable and abide by their comprehensive plans. After that, only citizens were able to ensure development was consistent with the local government comprehensive plan.

This is a very serious threat to citizens’ rights and sustainable development in Florida.

Comprehensive plans are the blueprints for orderly, fiscally responsible growth for every local government in Florida. They also include provisions to protect the environment, rural and agricultural lands, water, aquifer recharge areas, and coastal communities.

The amendment was never introduced in committee, never analyzed by legislative staff, never subjected to public testimony, and never debated by legislators. 1000 Friends does not believe a majority of Representatives and Senators would have supported the amendment if they recognized its devastating impact on Floridians and their hard-won right to shape the future in their communities.

There was no need for this provision; Florida law already gives judges the authority to require citizens who file frivolous consistency challenges to pay attorney fees, so HB 7103 instead targets citizens with legitimate concerns.

Local governments face unlimited financial liability as well if they are not the prevailing party in a development order challenge – meaning that Florida’s taxpayers could be on the hook for developer’s attorney fees.

On September 13, 2019, 1000 Friends of Florida filed a lawsuit against the State of Florida challenging the new law on the basis that it violates the Florida Constitution’s guarantee of due process and its requirement that laws be limited to a single subject.