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1  
2 An act relating to school concurrency; amending s.  
3 163.3180, F.S.; revising provisions specifying when  
4 school concurrency is deemed satisfied; requiring a  
5 district school board to notify a local government  
6 that capacity is available for development within a  
7 certain timeframe; specifying that proportionate-share  
8 mitigation must be set aside and not spent if an  
9 improvement has not been identified; providing an  
10 effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14 Section 1. Paragraph (h) of subsection (6) of section  
15 163.3180, Florida Statutes, is amended to read:

16 163.3180 Concurrency.—

17 (6)

18 (h)1. In order to limit the liability of local governments,  
19 a local government may allow a landowner to proceed with  
20 development of a specific parcel of land notwithstanding a  
21 failure of the development to satisfy school concurrency, if all  
22 the following factors are shown to exist:

23 a. The proposed development would be consistent with the  
24 future land use designation for the specific property and with  
25 pertinent portions of the adopted local plan, as determined by  
26 the local government.

27 b. The local government's capital improvements element and  
28 the school board's educational facilities plan provide for  
29 school facilities adequate to serve the proposed development,

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30 and the local government or school board has not implemented  
31 that element or the project includes a plan that demonstrates  
32 that the capital facilities needed as a result of the project  
33 can be reasonably provided.

34 c. The local government and school board have provided a  
35 means by which the landowner will be assessed a proportionate  
36 share of the cost of providing the school facilities necessary  
37 to serve the proposed development.

38 2. If a local government applies school concurrency, it may  
39 not deny an application for site plan, final subdivision  
40 approval, or the functional equivalent for a development or  
41 phase of a development authorizing residential development for  
42 failure to achieve and maintain the level-of-service standard  
43 for public school capacity in a local school concurrency  
44 management system where adequate school facilities will be in  
45 place or under actual construction within 3 years after the  
46 issuance of final subdivision or site plan approval, or the  
47 functional equivalent. School concurrency is deemed satisfied  
48 when if the developer tenders a written, ~~executes a~~ legally  
49 binding commitment to provide mitigation proportionate to the  
50 demand for public school facilities to be created by actual  
51 development of the property, including, but not limited to, the  
52 options described in sub-subparagraph a. The district school  
53 board shall notify the local government that capacity is  
54 available for the development within 30 days after receipt of  
55 the developer's legally binding commitment. Options for  
56 proportionate-share mitigation of impacts on public school  
57 facilities must be established in the comprehensive plan and the  
58 interlocal agreement pursuant to s. 163.31777.

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59           a. Appropriate mitigation options include the contribution  
60 of land; the construction, expansion, or payment for land  
61 acquisition or construction of a public school facility; the  
62 construction of a charter school that complies with the  
63 requirements of s. 1002.33(18); or the creation of mitigation  
64 banking based on the construction of a public school facility in  
65 exchange for the right to sell capacity credits. Such options  
66 must include execution by the applicant and the local government  
67 of a development agreement that constitutes a legally binding  
68 commitment to pay proportionate-share mitigation for the  
69 additional residential units approved by the local government in  
70 a development order and actually developed on the property,  
71 taking into account residential density allowed on the property  
72 prior to the plan amendment that increased the overall  
73 residential density. The district school board must be a party  
74 to such an agreement. As a condition of its entry into such a  
75 development agreement, the local government may require the  
76 landowner to agree to continuing renewal of the agreement upon  
77 its expiration.

78           b. If the interlocal agreement and the local government  
79 comprehensive plan authorize a contribution of land; the  
80 construction, expansion, or payment for land acquisition; the  
81 construction or expansion of a public school facility, or a  
82 portion thereof; or the construction of a charter school that  
83 complies with the requirements of s. 1002.33(18), as  
84 proportionate-share mitigation, the local government shall  
85 credit such a contribution, construction, expansion, or payment  
86 toward any other impact fee or exaction imposed by local  
87 ordinance for public educational facilities, on a dollar-for-

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88 dollar basis at fair market value. The credit must be based on  
89 the total impact fee assessed and not on the impact fee for any  
90 particular type of school.

91 c. Any proportionate-share mitigation must be directed by  
92 the school board toward a school capacity improvement identified  
93 in the 5-year school board educational facilities plan or must  
94 be set aside and not spent until such an improvement has been  
95 identified that satisfies the demands created by the development  
96 in accordance with a binding developer's agreement.

97 3. This paragraph does not limit the authority of a local  
98 government to deny a development permit or its functional  
99 equivalent pursuant to its home rule regulatory powers, except  
100 as provided in this part.

101 Section 2. This act shall take effect July 1, 2022.