

BILL

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1                                   A bill to be entitled  
 2           An act relating to Lee County; creating the Captiva  
 3           Island Conservation Area; providing legislative  
 4           intent; providing limitation on height and density of  
 5           certain structures with the conservation area;  
 6           restricting the commercial, industrial or multi-family  
 7           use of land to those lands zoned for such uses prior  
 8           to the effective date of this act; providing  
 9           application; providing for enforcement; providing  
 10          severability; designating the act as Captiva Island  
 11          Conservation Area Act; requiring a referendum;  
 12          providing an effective date.

13  
 14 Be It Enacted by the Legislature of the State of Florida:

15           Section 1. The Legislature of the State of Florida hereby  
 16 finds that Captiva Island is a fragile barrier island of  
 17 particular natural beauty containing abundant plant, marine,  
 18 animal and bird life; that the island has limited  
 19 infrastructure, hurricane evacuation routes, water resources,  
 20 wastewater systems and environmental resources; that  
 21 conservation of the island is in the best interest of Captiva  
 22 Island property owners, the citizens of Lee County, and the  
 23 State of Florida; and that the extent to which development of  
 24 the island is permitted to occur will have a substantial impact  
 25 on the ecology and natural beauty of the island and the water

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26 quality of the surrounding Pine Island Sound and Gulf of Mexico.  
 27 In order to preserve and conserve the fragile ecosystems and  
 28 natural characteristics of the island, it is necessary to  
 29 restrict the land uses and the height and density of structures  
 30 and to limit noise, light, water and air pollution. The purpose  
 31 of this act is to permit limited development of the island while  
 32 preserving its natural beauty and plant, marine, animal and bird  
 33 life, its mangrove fringe, and its sustainability.

34 Section 2. There is hereby created a special conservation  
 35 area, for the uses and purposes set forth herein, known as the  
 36 Captiva Island Conservation Area. The boundaries of the district  
 37 shall include all of Captiva Island in Lee County, including all  
 38 adjacent submerged lands, tidal lands, overflow lands, and tidal  
 39 ponds.

40 Section 3. ~~(1) No building or other structure shall be~~  
 41 ~~erected or altered within the district so that the peak of the~~  
 42 ~~roof is more than 28 feet base flood elevation.~~  
 43 ~~The height of buildings and structures may not exceed the least~~  
 44 ~~restrictive of the two following options:~~

- 45 ~~(1) Thirty-five feet above the average grade of the lot in~~  
 46 ~~question or 42 feet above mean sea level measured to the~~  
 47 ~~peak of the roof, whichever is lower; or~~
- 48 ~~(2) Twenty-eight feet above the lowest horizontal member at~~  
 49 ~~or below the lawful base flood elevation measured to the~~  
 50 ~~mean level between eaves and ridge in the case of gable~~

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51 hip and gambrel roofs.  
 52 (2) The density of any development which includes dwelling  
 53 units, whether or not it includes commercial rental dwelling  
 54 units ~~such as hotels or motels~~, shall not exceed 3 dwelling  
 55 units per acre. In computing such density, only land above mean  
 56 sea level, contiguous and under single ownership may be  
 57 utilized. Parcels which are bisected by a publicly dedicated  
 58 road, including state and county roads, shall not be considered  
 59 contiguous for the purpose of computing density hereunder.  
 60 (3) A single-family dwelling may be constructed on lands  
 61 zoned for such use, including lots which were platted and  
 62 recorded prior to the effective date of this act or lands  
 63 rezoned for single family use after the effective date of this  
 64 act. Notwithstanding, the use of nonconforming lots shall be  
 65 governed by local zoning regulations.  
 66 (4) No land within the district shall be used for  
 67 commercial, industrial, or multi-family purposes except land  
 68 that was zoned for such uses prior to the effective date of this  
 69 act. Nothing contained in this act shall preclude maintenance of  
 70 fuel supply facilities at existing ports or off-loading  
 71 facilities.  
 72 (5) This section shall not render legally existing  
 73 structures unlawful ~~or prohibit the right to build back~~  
 74 ~~nonconforming buildings damaged by natural disaster in~~  
 75 ~~compliance with updated federal flood elevations without a~~

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reduction in use, density, intensity, size or square footage of the damaged buildings.

Section 4. (1) This act shall not be construed as limiting the application of or repealing any local comprehensive land use plan, law, or rule dealing with the subject of zoning, conservation, or air and water pollution standards; but if any of the standards specified by this act are more restrictive than those specified in such other plan, law, or rule, the standards specified by this act shall prevail.

(2) No local government body may grant variances or exceptions to the height, density, or other requirements of this act.

(3) In order to enforce the provisions of this act and/or to enjoin a violation of same, a real property owner need not allege or prove that the violation of this act will adversely affect the property rights of said real property owner to any greater extent or different degree than said violation will affect any other real property owner within the district. A real property owner who is successful in his or her efforts to enforce this act through civil proceedings shall be awarded a reasonable attorney's fee and court costs which shall be assessed as a judgment against the person or persons determined by the court to have violated this act. No action by any county commission shall be required as a condition precedent to enforcement of this act pursuant to this section.

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101           Section 5. If any provision of this act or the application  
 102 thereof to any person or circumstance is held invalid, the  
 103 invalidity shall not affect other provisions or applications of  
 104 the act which can be given effect without the invalid provision  
 105 or application, and to this end the provisions of this act are  
 106 declared severable.

107           Section 6. This act shall be known and cited as the Captiva  
 108 Island Conservation Area Act.

109           Section 7. (1) During the 2024 general election, there  
 110 shall be a referendum election concerning whether this act shall  
 111 become a law.

112           (2) The ballot title for the referendum question shall be  
 113 in substantially the following form:

114           CREATING CAPTIVA ISLAND CONSERVATION AREA

115           (3) The referendum question shall be placed on the ballot  
 116 in substantially the following form:

117           Shall Chapter 2024- , Laws of Florida, creating the  
 118 Captiva Island Conservation Area, limiting the height of certain  
 119 structures, limiting the density of dwelling units, and limiting  
 120 commercial, industrial, or multi-family zoning those areas zoned  
 121 for that purpose on the effective date of the act?

122           ( ) Yes.

123           ( ) No.

124           (4) The referendum election shall be conducted by the  
 125 Supervisor of Elections of Lee County in accordance with the

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126 | Florida Election Code.

127 |       Section 8. This act shall take effect upon approval by a  
128 | majority vote of qualified electors in the proposed Captiva  
129 | Island Conservation Area voting in a referendum to be held at  
130 | the 2024 general election, except section 7 and this section  
131 | shall take effect upon becoming a law.