

1 A bill to be entitled
2 An act relating to Broward County; creating the
3 Broward County Affordable Housing Improvement Act;
4 providing definitions; authorizing the levy of a
5 discretionary surtax to establish and finance
6 affordable housing for certain persons; specifying the
7 cap for the rate of the surtax; specifying
8 requirements for reauthorizing the discretionary
9 surtax; specifying the documents and conditions under
10 which the surtax applies; specifying the procedures a
11 county must use before levying the surtax; requiring
12 that surtax proceeds be deposited in the county's
13 affordable housing trust fund; specifying authorized
14 and prohibited uses of surtax proceeds; providing
15 exceptions; providing an exception to general law;
16 prohibiting the rehabilitation of housing owned by
17 certain governments without a specified vote;
18 requiring the Office of Program Policy Analysis and
19 Government Accountability to review the discretionary
20 surtax program at a specified interval and provide a
21 report to the Governor and Legislature; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Short title.—This act may be cited as the
27 "Broward County Affordable Housing Improvement Act."

28 Section 2. Definitions.—For purposes of this act, the
29 term:

30 (1) "Adjusted for family size" means the adjustment of the
31 income eligibility level to a lower level for households having
32 fewer than four persons and a higher level for households having
33 more than four persons as compared to the base income
34 eligibility determined as provided in subsections (10), (11),
35 and (12) which shall be based upon a formula established by the
36 United States Department of Housing and Urban Development.

37 (2) "Affordable" means monthly rents or monthly mortgage
38 payments including taxes and insurance that do not exceed 30
39 percent of the income which represents the percentage of the
40 median annual gross income for the households indicated in
41 subsections (10), (11), and (12).

42 (3) "Affordable housing" means any real or personal
43 property located within Broward County that is constructed for
44 the primary purpose of providing decent, safe, and sanitary
45 residential units that are designed for home ownership or rental
46 for very low-income, low-income, and moderate-income persons and
47 families.

48 (4) "Affordable Housing Trust Fund" or "AHTF" means the
49 Broward County Affordable Housing Trust Fund approved by
50 majority vote of the Broward County electors voting in a

51 referendum held during the November 2018 general election and
52 codified in Section 11.09 of the Broward County Charter.

53 (5) "County" means Broward County.

54 (6) "County commission" means the Board of County
55 Commissioners of Broward County.

56 (7) "Homeownership assistance" means the assistance of
57 very low-income, low-income, and moderate-income families in
58 purchasing a home as their primary residence, including reducing
59 the cost of the home with below-market construction financing,
60 the amount of down payment and closing costs paid by the
61 borrower, or the mortgage payment to an affordable amount for
62 the purchaser or using any other financial assistance measure as
63 provided in s. 420.5088, Florida Statutes.

64 (8) "Housing" includes single-family, detached dwellings,
65 multi-family dwellings, and other residential dwellings.

66 (9) "Housing assistance voucher" means the document used
67 to access assistance paid by the county from the discretionary
68 surtax balance in the Affordable Housing Trust Fund to a
69 prospective purchaser of a single-family residence, which must
70 be the purchaser's homestead.

71 (10) "Low-income family" means one or more natural persons
72 or a family with a total anticipated income for the household
73 that does not exceed 80 percent of the median annual income
74 adjusted for family size for households within the county.
75 However, with respect to rental units, the household's annual

76 | income at the time of initial occupancy may not exceed 80
77 | percent of the area's median income adjusted for family size.
78 | While occupying the rental unit, the household's annual income
79 | may increase to an amount not to exceed 140 percent of 80
80 | percent of the area's median income adjusted for family size.

81 | (11) "Moderate-income family" means one or more natural
82 | persons or a family with a total anticipated income for the
83 | household that does not exceed 140 percent of the median annual
84 | income adjusted for family size for households within the
85 | county. However, with respect to rental units, the household's
86 | annual income at the time of initial occupancy may not exceed 40
87 | percent of the area's median income adjusted for family size.
88 | While occupying the rental unit, the household's annual income
89 | may increase to an amount not to exceed 140 percent of 140
90 | percent of the area's median income adjusted for family size.

91 | (12) "Very low-income family" means one or more natural
92 | persons or a family with a total anticipated income for the
93 | household that does not exceed 50 percent of the median annual
94 | income adjusted for family size for households within the
95 | county. However, with respect to rental units, the household's
96 | annual income at the time of initial occupancy may not exceed 50
97 | percent of the area's median income adjusted for family size.
98 | While occupying the rental unit, the household's annual income
99 | may increase to an amount not to exceed 140 percent of 50
100 | percent of the area's median income adjusted for family size.

101 Section 3. Affordable housing discretionary surtax on
102 documents; adoption; application of revenue.—

103 (1) The county may levy a discretionary surtax on
104 documents for the purpose of establishing and financing
105 affordable housing countywide.

106 (2) The rate of the surtax may not exceed the rate of 45
107 cents for each \$100 or fractional part thereof of the
108 consideration therefor. The surtax shall apply only to those
109 documents taxable under s. 201.02, Florida Statutes, except a
110 surtax may not be levied on any document in which the interest
111 granted, assigned, transferred, or conveyed involves only a
112 single-family residence. A single-family residence may be a
113 condominium unit, a unit held through stock ownership or
114 membership representing a proprietary interest in a corporation
115 owning a fee or a leasehold initially in excess of 98 years, or
116 a detached dwelling.

117 (3) The county commission may initially levy the
118 discretionary surtax authorized in this section only upon a
119 super majority vote of its entire membership. This initial levy
120 of the surtax shall expire on January 1, 2031, unless the county
121 commission places a question to reauthorize the levy of the
122 surtax before the county's electors in a referendum to be held
123 at the general election of November 2030. If a majority of the
124 electors voting in the referendum reauthorize the surtax, the
125 county commission shall place a question to reauthorize the

126 surtax every 12 years following the approval of the prior
127 reauthorization.

128 (4) Subject to subsection (3), the county commission shall
129 enact an ordinance which establishes the policies and procedures
130 governing the levy of the surtax, use of surtax proceeds,
131 eligibility standards, and housing assistance voucher programs
132 available to very low-income, low-income and moderate-income
133 families residing within the county. The surtax ordinance must
134 be proposed at a regular meeting of the county commission at
135 least 2 weeks before the public hearing at which the ordinance
136 will be formally enacted. The ordinance is only effective if
137 approved by a super-majority vote of the total membership of the
138 county commission. The ordinance may not take effect until 90
139 days after formal enactment or such other date prescribed by the
140 county commission, whichever is later.

141 (5) The county shall deposit all proceeds from the
142 discretionary surtax in the Affordable Housing Trust Fund and
143 shall create separate accounts within the Affordable Housing
144 Trust Fund to avoid commingling the proceeds generated from
145 implementation of this act and other revenues deposited by the
146 county for affordable housing. Investment earnings from the
147 proceeds deposited into AHTF pursuant to this act, if any, must
148 be retained and used for affordable housing.

149 (6) (a) The county shall use the proceeds solely to
150 increase and improve the supply of affordable housing to

151 eligible households including the acquisition of property and
152 property rights, costs of construction including costs
153 associated with planning, administration, design, building or
154 installation, and any other costs necessary to finance the
155 construction, rehabilitation, or purchase of housing for very
156 low-income, low-income and moderate-income families, to pay the
157 necessary costs of collection and enforcement of the surtax, the
158 reimbursement of the county for any costs advanced from other
159 funding sources, and to fund any local matching contributions
160 required pursuant to federal law. The county's expenditure of
161 surtax proceeds shall, to the extent practical, be consistent
162 with the affordable housing incentives strategies developed and
163 recommended to the county by the Broward County Affordable
164 Housing Advisory Committee pursuant to s. 420.9076, Florida
165 Statutes.

166 (b) At least 50 percent of the funds must be used to
167 provide housing assistance for the benefit of very low-income
168 and low-income families. The county shall by ordinance divide
169 the proceeds set-aside in this paragraph to assist the housing
170 needs of very low-income and low-income households. At least 10
171 percent of the surtax proceeds must be used to provide housing
172 assistance for income-eligible, qualified individuals with
173 disabilities. Authorized uses of the proceeds include:

- 174 1. Providing funds for first and second mortgages.
175 2. Acquiring property to form housing cooperatives.

176 3. Acquiring land for a residential housing project, in
177 which at least 30 percent of the units are affordable to very
178 low-income, low-income, and moderate-income families, if the
179 land is owned by a local government or a special district that
180 enters into an agreement with the county to provide such
181 housing. The local government or special district may enter into
182 a ground lease with a person or entity for nominal or other
183 consideration for the construction of the residential housing
184 project on land acquired pursuant to this paragraph.

185 (c) No more than 50 percent of the revenues collected each
186 year under this section may be used to help finance new
187 construction. The proceeds of the surtax may not be used for
188 rent subsidies or grants.

189 (d) No more than 10 percent of surtax revenues collected
190 under this section by the Department of Revenue and remitted to
191 the county in any fiscal year may be used for reasonable
192 administrative costs, including reasonable consultant and legal
193 expenses related to the establishment and administration of
194 affordable housing programs, administration of the AHTF, and
195 reasonable expenses for administering the process of
196 calculating, collecting, and accounting for any deferred county
197 fees as authorized by county ordinance.

198 (e) Notwithstanding any other provision of the Broward
199 County Code of Ordinances or federal or state law or regulations
200 to the contrary, surtax revenues deposited in the AHTF and used

201 to construct, acquire, rehabilitate, or subsidize affordable
202 housing, or assist other governmental agencies, private
203 organizations, or individuals in the construction, acquisition,
204 rehabilitation, reimbursement of county advanced funds, location
205 or subsidy of affordable housing shall, whenever feasible, be
206 disbursed in a manner to assure that the housing supply created
207 with AHTF revenues is accessible to a range of families whose
208 incomes do not exceed the United States Department of Housing
209 and Urban Development's published standards for moderate-income
210 households, adjusted for family size.

211 (7) Notwithstanding subsection (6), of the discretionary
212 surtax revenues collected by the Department of Revenue remaining
213 after any deduction for administrative costs as provided in
214 paragraph (6) (d), at least 35 percent shall be used to provide
215 homeownership assistance for very low-income, low-income, and
216 moderate-income families, and at least 35 percent shall be used
217 for construction, rehabilitation, and purchase of rental housing
218 units. The remaining amount may be allocated to provide for
219 homeownership assistance or rental housing units, at the
220 discretion of the county.

221 (8) Any funds allocated for homeownership assistance or
222 rental housing units that are not committed at the end of the
223 fiscal year shall be reallocated in subsequent years consistent
224 with this subsection, in that at least 35 percent shall be
225 reallocated to provide homeownership assistance for very low-

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226 income, low-income, and moderate-income families, and at least
227 35 percent shall be reallocated for construction,
228 rehabilitation, and purchase of rental housing units. The
229 remaining amount of uncommitted funds may be reallocated at the
230 discretion of the county within any of the categories
231 established in this section.

232 (9) Rehabilitation of housing owned by a recipient
233 government may be authorized only after a determination approved
234 by a majority vote of the total membership of the county
235 commission that no other sources of funds are available.

236 Section 4. Program review and report.—By January 1, 2025,
237 and every 5 years thereafter, the Office of Program Policy
238 Analysis and Government Accountability shall review the
239 discretionary surtax program operated under this section and
240 shall provide a report to the Governor, the President of the
241 Senate, and the Speaker of the House of Representatives.

242 Section 5. This act shall take effect October 1, 2021.