FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

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BILL #: CS/HB 943	**COMPANION BILL:** SB 1730 (Calatayud)
TITLE: Real Property and Land Use and Development	**LINKED BILLS:** None
SPONSOR(S): Lopez, V.	**RELATED BILLS:** None

Committee References

Housing, Agriculture & Tourism
14 Y, 1 N, As CS
➤ Intergovernmental Affairs ➤ Civil Justice & Claims ➤ Commerce

SUMMARY

Effect of the Bill:

The bill:

- Amends various provisions in the Live Local Act relating to affordable housing, certain building moratoriums, and reporting requirements.
- Requires proposed urban infill development to be administratively approved.
- Makes certain qualified developments eligible to receive an exception or waiver for 20 percent of the impact fees for the development of affordable housing.
- Revises the requirements to receive a property tax exemption for certain affordable housing.
- Requires local governments to allow the construction of accessory dwelling units (ADUs).
- Requires the Florida Housing Finance Corporation to finance housing for veterans and essential service and high-demand career employees.
- Creates expedited foreclosure proceedings for abandoned real property.
- Makes it unlawful to discriminate in land use decisions based on a development or proposed development being affordable housing.
- Requires district school boards to adopt best practices for surplus land programs.

Fiscal or Economic Impact:

The bill has an indeterminate impact on local governments and the private sector.

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ANALYSIS

EFFECT OF THE BILL:

Affordable Housing Development

The bill amends various provisions in the Live Local Act.

The bill prohibits a local government[1] from adopting or enforcing any law, ordinance, rule, or other measure that:

- Limits or prohibits affordable housing, including, but not limited to, any measure that is adopted for the purpose of limiting the maximum percentage of units within a certain geographic area or within a certain distance from another affordable housing project; or
- Otherwise prohibits affordable housing in areas zoned for such use. (Section 1 for counties; Section 4 for municipalities.)

[1] Local government means any county or municipality. S. 163.3164(29), F.S.

The bill authorizes a local government to approve the development of affordable housing on any parcel, including any contiguous parcel connected thereto, that is owned by a religious institution[2] that contains a house of public worship, regardless of the underlying zoning, so long as at least 10 percent of the units included in the project are for affordable housing. (Section 1 for counties; Section 4 for municipalities.)

The bill also requires[3] local governments to authorize multifamily and mixed use residential as allowable uses, if at least 40 percent of the residential units in a proposed multifamily or mixed-use residential development are rental units that have an affordability period of 30 years or more, on:

- Any site owned by the local government, a district school board, or a religious institution, and in any area zoned for commercial, industrial, or mixed use;
- Any planned unit development permitted for commercial, industrial, or mixed use; or
- Any zoning district not zoned solely for use as a single-family home or duplex. (Section 1 for counties; Section 4 for municipalities.)

Under the bill, local governments must authorize the inclusion of an adjacent parcel of land as part of the multifamily development, regardless of the land use designation on the adjacent parcel, if the residential units to be built on the adjacent parcel comply with the above requirements. (Section 1 for counties; Section 4 for municipalities.)

The bill requires areas zoned for mixed use by a local government, notwithstanding any other local land development regulation categorization or title, to be defined as areas that include both residential and nonresidential uses, regardless of whether the residential or nonresidential uses are permitted as:

- Principal use,
- Conditional use,
- Ancillary use,
- Special use,
- Unusual use,
- Accessory use,
- Planned unit development, or
- Planned development. (Section 1 for counties; Section 4 for municipalities.)

Additionally, the bill provides that affordable or workforce units that receive any incentive under current law[4] also qualify as affordable ***as long as*** the units satisfy affordability requirements[5] and local regulations. (Section 1 for counties; Section 4 for municipalities.)

The bill requires a proposed multifamily or mixed-use residential development to be administratively approved, without further action by the board of county commissioners or governing body, as applicable, or any quasi-judicial board of the reviewing body, if the development satisfies the local government's land development regulations for multifamily or mixed-use residential developments in areas zoned for such use, density, intensity, and height, with the exception of provisions establishing allowable densities, floor area ratios, height and land use, including mixed use and minimum nonresidential or commercial floor area requirements. (Section 1 for counties; Section 4 for municipalities.)

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[2] Religious institution means any church, synagogue, or other established physical place for worship at which nonprofit religious services and activities are regularly conducted and carried on. S. 170.201(2), F.S.

[3] This requirement is notwithstanding any other law, local ordinance, or regulation to the contrary, including any local moratorium established after March 29, 2023. (Section 1 for counties; Section 4 for municipalities.)

[4] In exchange for a developer fulfilling the requirements of s. 125.01055(2), F.S. (for a county), or s. 166.04151(2), F.S. (for a municipality), a local government must provide incentives to fully offset all costs to the developer of its affordable housing contribution or linkage fee. Such incentives may include, but are not limited to: allowing the developer density or intensity bonus incentives or more floor space than allowed under the current or proposed future land use designation or zoning; reducing or waiving fees, such as impact fees or water and sewer charges; or granting other incentives. *See* ss. 125.01055(4) and 166.04152(4), F.S.

[5] *See* s. 420.0004(3), F.S.

The bill requires:

- The removal or demolition of an existing structure that must be performed as part of the proposed development to also be administratively approved.
- A proposed development that is authorized must be treated as a conforming use, notwithstanding the local government's comprehensive plan, future land use designation, or zoning. (Section 1 for counties; Section 4 for municipalities.)

Under the bill, if a property owner files a site plan application for an affordable housing project, the administrative review process must be based solely on the land development regulations in effect as of the date of filing the application. Further, if an action is filed against a local government to challenge the adoption or enforcement of a local ordinance, resolution, or other local regulation on the grounds that it is expressly preempted by state law, the bill requires:

- A court to expedite the proceeding and render a decision within 30 days after service of process.
- A notice of appeal to be filed and served within 30 days after the rendition of the judgment appealed from.
- The Supreme Court to adopt rules by October 1, 2025, to ensure the proceedings are handled expeditiously and consistently with the foregoing provisions. (Section 1 for counties; Section 4 for municipalities.)

Prohibited Acts

The bill prohibits[6] a local government from requiring a proposed multifamily or mixed-use residential development to take any of the following actions for the approval of certain height, density, or zoning, if the proposed multifamily or mixed-use residential development is authorized:

- Acquire or transfer density, density units, or development units.
- Obtain an amendment to a development of regional impact, amendment to a development agreement, or amendment to a restrictive covenant or a zoning or land use change, special exception, condition use, approval, variance, comprehensive plan amendment, or any other approval. (Section 1 for counties; Section 4 for municipalities.)

The bill also prohibits a local government from requiring more than 10 percent of the total square footage of a mixed-use residential project to be used for nonresidential purposes. (Section 1 for counties; Section 4 for municipalities.)

The bill prohibits local governments from directly restricting, or taking action that has the effect of restricting:

- The maximum lot size of a proposed multifamily or mixed-use residential development below the highest maximum lot size allowed on or after July 1, 2023, on any unincorporated land in the local government where multifamily or mixed-use residential development is allowed pursuant to the local government's land development regulations.
- The maximum lot coverage of a proposed multifamily or mixed-use residential development below 70 percent. (Section 1 for counties; Section 4 for municipalities.)

For purposes of the above prohibition related to maximum lot sizes and maximum lot coverages, the bill provides that "directly restricting" and "taking action that has the effect of restricting" includes requirements to procure or transfer density units or development units from other properties. (Section 1 for counties; Section 4 for municipalities.)

The bill clarifies that local governments may not directly restrict or take action that has the effect of restricting the height of a proposed multifamily or mixed-use residential development below the highest height allowed on or after July 1, 2023. For purposes of this prohibition, the bill provides that "highest height" includes the height of the tallest existing building located in the local government's jurisdiction within 1 mile of the proposed development if the existing building exceeds the highest height allowed on or after July 1, 2023. (Section 1 for counties; Section 4 for municipalities.)

[6] This prohibition is notwithstanding any other law, local ordinance, or regulation to the contrary. (Section 1 for counties; Section 4 for municipalities.)

The bill preempts any local government ordinance, resolution, or action adopted after July 1, 2023, that has the effect, either directly or indirectly, of doing any of the following, and provides that any such ordinance, resolution, or action that does any of the following is superseded by state law:

- Limiting the height, floor area ratio, or density of an affordable housing project;
- Unreasonably delaying the development or construction of an affordable housing project, including, but not limited to, imposing a moratorium;
- Restricting the manner in which affordable units are developed or accessed within a project or regulating the types of units in the project; or
- Restricting or limiting an affordable housing project in any other way. (Section 1 for counties; Section 4 for municipalities.)

The bill also:

- Prohibits a local government's review or approval of an application for a development permit or development order from being conditioned on the waiver, forbearance, acquisition, transfer or abandonment of any affordable housing development right, or the procurement or transfer of density units or development units.
- Makes any such waiver, forbearance, acquisition, transfer, procurement, or abandonment void. (Section 1 for counties; Section 4 for municipalities.)

Reporting Requirements

Beginning June 30, 2026, the bill requires all local governments to submit an annual report to the state planning agency[7] that includes:

- All litigation initiated under s. 125.01055(1), F.S., for counties, or s. 166.04151(1), F.S., for municipalities, the status of the case, and, if applicable, the final disposition of the case.
- All actions the local government has taken on any affordable housing project, including, at minimum, the project size, density, and intensity, and the number of units and the number of affordable units for such proposed project.
- For any proposed development that is denied or not accepted, all actions the local government has taken on such proposed development and an explanation for why such actions were taken. (Section 1 for counties; Section 4 for municipalities.)

Under the bill, the state land planning agency must also provide an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding local governments' compliance with Florida's affordable housing project development laws. (Section 1 for counties; Section 4 for municipalities.)

Building Moratoriums

The bill prohibits a local government from initiating or enforcing zoning-in-progress or a building moratorium on affordable housing developments for which the local government has approved the development's preliminary site plan. Additionally, the bill requires each local government to:

- Maintain on its website a policy containing the zoning map and zoning regulations in effect on July 1, 2023, in addition to the procedures and expectations for certain administrative approval.
- Reduce parking requirements by at least 20 percent for affordable housing developments, or by 100 percent for structures that are 20,000 square feet or less.
- Approve a building permit plan review for proposed affordable housing developments within 60 days, and prioritize a building permit plan review for affordable housing projects over other development projects. (Section 1 for counties; Section 4 for municipalities.)

The bill also prohibits local governments from imposing a building moratorium that has the effect of delaying the permitting of construction of a multifamily project that would otherwise qualify for:

[7] State land planning agency means the Department of Commerce. S. 163.3164(46), F.S.

- An affordable housing ad valorem tax exemption.[8]
- Any grant, loan or other incentive provided for the development of affordable housing under ch. 420, F.S.
- Any abatement of development restrictions.[9] (Section 1 for counties; Section 4 for municipalities.)

Under the bill, if the owner of an administratively approved proposed development has acted in reliance on that administrative approval, the owner has a vested right to proceed with development under the relevant laws, regulations, and ordinances at the time such rights vested, if the property continues to comply with the requirements of s. 125.01055(7), F.S., for counties, and s. 163.04151(7), F.S., for municipalities. (Section 1 for counties; Section 4 for municipalities.)

Miscellaneous

The bill provides that, regardless of terminology used in a local government's land development regulations, the following terms are defined as follows:

- "Allowable density" means the density prescribed for a property without additional requirements to procure and transfer density units or development units from other properties.
- "Allowable use" means the intended uses identified in a local government's land development regulations which are authorized within a zoning category as a use by right, without the requirement to obtain a variance or waiver. The term does not include uses that are accessory, ancillary, or incidental to the allowable uses or allowed only on a temporary basis.
- "Commercial use" means activities associated with the sale, rental, or distribution of products or the sale or performance of services. The term includes, but is not limited to, retail, office, entertainment, and other for-profit business activities.
- "Planned unit development" means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots. (Section 1 for counties; Section 4 for municipalities.)

The bill allows the prevailing party in a challenge under s. 125.01055(1), F.S., for counties, or s. 166.04151(1), F.S., for municipalities, to recover attorney fees and costs, including reasonable appellate attorney fees and costs, notwithstanding s. 57.112(6), F.S. (Section 1 for counties; Section 4 for municipalities.)

Impact Fees

Under the bill, qualified developments that are authorized must receive an exception or waiver for 20 percent of the impact fees for the development of, or construction of the portion of the development that is, affordable housing. (Section 2.)

Designation of Properties as Historical Landmarks

The bill requires any ordinance that designates property as a historical landmark to have a printed or digital map of the property readily available, and requires the map to be submitted to the State Historic Preservation Officer no later than June 1, 2027. (Section 3.)

The bill requires a resolution of a local government's governing body or board of county commissioners (as applicable), which designates the character of privately owned property as a historical landmark without the consent of the property owner, to be accompanied by a finding by the governing body, based on substantial competent evidence, that the historic significance of the subject property is commensurate, to an equal or greater degree, with property that is already designated as a historic landmark within the municipality. (Section 3.)

Urban Infill and Redevelopment Areas

[8] *See* ss. 196.1978 and 196.1979, F.S.
[9] *See* s. 125.01055 (7), F.S., for counties, and s. 163.04151(7), F.S., for municipalities.

The bill requires a proposed urban infill development under Florida's Growth Policy Act to be administratively approved, without needing a comprehensive plan amendment, rezoning, or variance for the approval. This requirement is notwithstanding any ordinance to the contrary existing on July 1, 2025. (Section 5.)

Community Planning Act

The bill requires the approval of an increase in height or floor area ratio in a local government's land development regulations under the Community Planning Act to be by ordinance with a simple majority vote. For purposes of these provisions, "floor area ratio" includes floor lot area. (Section 6.)

Accessory Dwelling Units

The bill amends the definition of "accessory dwelling unit" to include a manufactured home constructed on or after January 1, 2025, which meets the National Manufactured Housing Construction and Safety Standards. (Section 7.)

The bill requires local governments to adopt an ordinance to allow ADUs in any area zoned for single-family residential use. The bill prohibits local governments from unreasonably increasing (or in effect unreasonably increasing) the cost to construct, in effect prohibiting the construction of, or extinguishing the ability to otherwise construct, an ADU. Such regulation does not include:

- Restrictions on the terms of rentals that do not apply generally to other housing in the same district or zone.
- Parking requirements and minimum lot size requirements that do not apply generally to other housing in the same district or zone, other lot design regulations that unreasonably increase the cost to construct, or unreasonably extinguish the ability to construct an accessory dwelling unit on a lot.
- Discretionary conditional use permit procedures or standards that do not apply generally to other housing in the same district or zone. (Section 7.)

The bill removes the requirement for a building permit application to construct an ADU to include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons. (Section 7.)

Beginning October 1, 2025, and by October 1 every year thereafter, the bill requires local governments to submit an annual report to the Department of Commerce (Department), in a form and manner prescribed by the Department, and post publicly on its website, the following information for the previous fiscal year:

- The number of applications to construct new ADUs, the number of new ADUs that have been approved, and the number of new ADUs that have been denied, including the reason for denial.
- The number of allowable ADUs located in the jurisdiction; the number of ADUs, attached or unattached, which are not allowed by an ordinance; and the number of single-family homes in a zoning district in which ADUs are allowed by an ordinance. (Section 7.)

The bill authorizes the Department to adopt rules to administer and enforce the above reporting requirements. (Section 7.)

Homestead Exemption

The bill prohibits the owner of a property with an ADU from being denied a homestead exemption or homestead property assessment limitation solely on the basis of the property containing an ADU which may be rented. Under the bill, if the ADU is rented by the property owner:

- The assessment of the ADU must be separated from the homestead property.
- The rental of the ADU by the owner may not be construed as an abandonment of the dwelling previously claimed to be a homestead,[10] provided the dwelling is physically occupied by the owner. (Section 7.)

[10] *See* s. 196.061, F.S.

If an ADU is not rented by the property owner, the bill requires the assessment of the ADU to be considered part of the homestead property. (Section 7.)

Affordable Housing Property Exemption

For property to be eligible for a local government's affordable housing property exemption, the bill requires a portion of the property to be:

- Used to house natural persons or families whose household income meets certain requirements;[11]
- Within a multifamily project containing at least the minimum number of residential units as defined by the local government. A local government may set a minimum residential unit threshold that deems a property eligible for the exemption for properties that exceed 15,000 square feet, at a minimum of 5 units not to exceed a minimum of 50 residential units; or
- An ADU (Section 8.)

Under the bill, qualified properties may receive an ad valorem property tax exemption up to 100 percent of the assessed value of an ADU on the property if the ADU is used to provide affordable housing that meets the requirements of s. 196.1979, F.S. (Section 8.)

Airport Zoning Regulations

The bill clarifies that local governments are not required to authorize:

- A proposed affordable housing development that is located within one-quarter of a mile laterally from the edge of an airport's runway and within an area that is the width of one-quarter of a mile extending at right angles from the end of the runway for a distance of 10,000 feet of any runway for an existing ***commercial service*** airport or planned ***commercial service*** airport runway identified in the local government's airport master plan.
- A proposed affordable housing development within any airport noise zone identified in the land use compatibility table or in a land-use zoning or airport noise regulation adopted by the local government for a ***commercial service*** airport.
- A proposed affordable housing development that exceeds maximum height restrictions identified in the political subdivision's airport zoning regulations for a ***commercial service*** airport. (Section 9.)

For purposes of the above provisions, the bill defines "commercial service airport" as a primary airport as defined in 49 U.S.C. § 47102 which is classified as a large, medium, or small hub airport by the Federal Aviation Administration.[12] (Section 9.)

Housing for Veterans and Essential Service Employees

The bill requires the Florida Housing Finance Corporation (Corporation) to finance projects that provide housing near military installations[13] and U.S. Department of Veterans Affairs medical centers or outpatient clinics in the state, with preference given to projects that incorporate critical services for servicemembers, their families, and veterans, such as mental health treatment services, employment services, and assistance with transition from active-duty service to civilian life. (Section 10.)

The bill also requires the Corporation to finance projects that provide housing in areas of critical housing shortage for essential service and high-demand career employees through a public-private housing partnership agreement with major public and private sector employers for whom housing shortages are affecting recruitment and retention of workers. Additionally, the bill:

- Requires public and private sector employers that partner with developers on these projects to provide land and financial support for the projects.

[11] *See* s. 196.1979(1)(a)1., F.S.
[12] *See* s. 332.0075(1)(a), F.S.
[13] For a list of those military installations, *see* s. 163.3175(2)(a)-(p), F.S.

- Prohibits housing under these provisions from being exclusive to any specific employee group. (Section 10.)

Expedited Foreclosure Proceedings for Abandoned Real Property

The bill allows a claimant, in a foreclosure proceeding under Florida's laws for foreclosure of mortgages and statutory liens,[14] to file a motion with the trial court for a judicial determination that certain residential real property is abandoned real property. The bill requires the claimant to file a sworn affidavit with the trial court attesting that the residential real property is abandoned real property, and any other relevant documentation, including photographic documentation. Upon filing of the motion, the bill requires the trial court to set the date and time for a hearing on the motion, which must be conducted at least 15 days but no more than 25 days after the filing of the motion. (Section 11.)

Under the bill, the claimant must:
- Give written notice to the homeowner of the abandoned property and to each known delinquent party.
- Promptly send or deliver notice to the last known mailing address, e-mail address, and telephone number of the homeowner and to each known delinquent party. The notice must:
    - State that a motion has been filed with the trial court to make a judicial determination as to whether the residential real property is abandoned real property and that a hearing regarding the motion has been set.
    - State the contact information of the trial court to which the motion was filed and the date and location of the hearing on the motion.
    - State the bill's definition of abandoned real property.
    - State the possible outcomes if the court makes a judicial determination that the residential real property is abandoned real property, including the possibility of an expeditious foreclosure on the property.
    - State that the homeowner or delinquent party has the right to file an affidavit attesting to legal residence at the property, or any other documentation of legal residence at the property, at the time of the hearing and may appear personally or by way of an attorney at the hearing.
    - State that a mortgagor, lawful occupant, or adverse possessor of the residential real property may contact the trial court for information about the motion and hearing or to object on the record to the motion.
    - Provide copies of the motion and any documentation in support of the motion, including photographic and other relevant documentation.
- Conspicuously post on the residential real property a notice printed in at least 12-point uppercase and boldfaced type. The posted notice must also include the information required for the mailed and e-mailed notice described above.
- File with the trial court photographic documentation of compliance with these provisions after posting the notice on the residential real property. (Section 11.)

At the hearing on the motion, if the trial court finds by a preponderance of the evidence that the residential real property is abandoned real property, the bill requires the court to render a declaratory judgment in favor of the claimant and immediately proceed to a trial of foreclosure. If the trial court finds at the foreclosure trial that the abandoned real property meets all requirements necessary to enter a judgement of foreclosure, the bill requires the court to promptly order the clerk to schedule a public sale of the abandoned real property. (Section 11.)

The bill provides that if a mortgagor, lawful occupant, or person claiming adverse possession of the abandoned property objects to the trial court's judicial determination described above and submits the appropriate documentation with the court, the court may not enter a declaratory judgment in favor of the claimant. If, however, sufficient evidence is presented to the court that the property is not abandoned real property, the court shall rescind the orders it previously issued. (Section 11.)

[14] *See* ch. 702, F.S.

Under the bill, residential real property is considered abandoned if the homeowner or delinquent party delivers a written, signed statement declaring the residential real property to be abandoned; or if the property is residential real property that a homeowner does not continue to occupancy or use, and at least three of the following indications of abandonment are met:

- Furnishings and personal items consistent with residential occupancy are not present on the property;
- Public utility services, such as gas, electric, or water utilities, are disconnected;
- Windows on the property are boarded up or closed off; smashed, broken, or unhinged; or window panes are broken and unrepaired;
- Statements are provided by neighbors, delivery agents, or government employees that the property is vacant;
- Doors on the property are substantially damaged, broken, unhinged, or conspicuously open;
- The property is stripped of copper or any other nonferrous metal, including, but not limited to, copper, copper alloy, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof, or any interior fixtures are removed;
- At least one report has been received by law enforcement officials of trespassing, vandalism, or other illegal activity on the property within the immediately preceding 6 months;
- The property has been declared unfit for occupancy and ordered to remain vacant and unoccupied under an order issued by a municipal authority or county authority, or by a court of competent jurisdiction;
- Construction has been initiated on the property but is discontinued before completion, leaving the property unsuitable for occupancy, and construction has not taken place for at least 12 months;
- Newspapers, circulars, flyers, or mail has accumulated on the property or the United States Postal Service has discontinued delivery to the property;
- Rubbish, trash, debris, neglected vegetation, or natural overgrowth has accumulated on the property;
- Hazardous, noxious, or unhealthy substances or materials have accumulated on the property;
- The homeowner or a representative for the property cannot be reached after a credible attempt to communicate; or
- Other credible indications exist indicating that the homeowner has vacated and abandoned the property. (Section 11.)

The above provisions do not apply to residential real property that is:

- Subject to an action to quiet title;
- Subject to a probate action;
- The subject of any other litigation where the ownership of the property is actively disputed;
- An unoccupied dwelling or building undergoing construction, renovation, or any other manner of rehabilitation, which complies with all applicable state and local permitting requirements and regulations. (Section 11.)

Prohibited Discrimination in Land Use Decisions

The bill clarifies that it is unlawful to discriminate in land use decisions or the permitting of development based on race, color, national origin, sex, disability, familial status, religion, or, except as other provided by law, the source of financing of a development or proposed development or based on the development or proposed development being affordable housing. (Section 13.)

The bill requires a court, upon finding that a person[15] has committed a discriminatory housing practice, to issue an order prohibiting the practice and providing affirmative relief from the effects of the practice, including injunctive and other equitable relief, actual and punitive damages, and reasonable attorney fees and costs. (Section 15.)

[15] For purposes of these provisions, the bill defines "person" as one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries, and any other legal or commercial entity; the state; or any governmental entity or agency. (Section 12.)

The bill waives sovereign immunity for the state, its agencies and political subdivisions for causes of action based on the application of the above provisions. (Section 15.)

The Legislature's intent is that the bill's changes to the above provisions are remedial and clarifying in nature. The bill's changes apply retroactively for any causes of action filed on or before the effective date of the bill, which is July 1, 2025. (Section 14.)

District School Board's Surplus Land Programs

The bill requires a district school board to use portions of school sites purchased within the guidelines of the State Requirements for Educational Facilities land deemed not usable for educational purposes because of location or other factors, or land declared as surplus by the board. The bill also requires each district school board's most recent and all future educational plan surveys to be updated to include an inventory of surplus lands. (Section 17.)

Additionally, the bill requires a district school board to adopt best practices for surplus land programs, including, but not limited to:

- Establishing eligibility criteria for the receipt or purchase of surplus land by developers.
- Making the process for requesting surplus lands publicly available.
- Ensuring long-term affordability through ground leases by retaining the right of first refusal to purchase property that would be sold or offered at market rate and by requiring reversion of property not used for affordable housing within a certain timeframe. (Section 17.)

The bill has an effective date of July 1, 2025. (Section 18.)

RULEMAKING:

The bill authorizes the Department of Commerce (Department) to adopt rules to administer and enforce the bill's reporting requirements for local governments relating to accessory dwelling units, including the form that local governments will use to submit the reports. (Section 7.)

Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.

FISCAL OR ECONOMIC IMPACT:

LOCAL GOVERNMENT:

The bill has an indeterminate impact on local governments that are subject to the bill's requirements to authorize the development of affordable housing.

PRIVATE SECTOR:

The bill has an indeterminate positive impact on the private sector to the extent that the bill facilitates, and results in an increase in the availability of, affordable housing in the state.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Affordable Housing

Housing is considered affordable when monthly rents or monthly mortgage payments, including taxes, insurance, and utilities, do not exceed 30 percent of a family's gross income.[16] Over 2.4 million low-income Florida households pay more than 30% of their incomes towards housing, which is the maximum amount considered affordable by

[16] S. 420.0004(3), F.S.

experts.[17] Over half of these households, or 1.3 million low-income households, spend more than 50% of their income towards housing costs.[18] This makes it difficult for those households to save for retirement or emergencies and difficult to afford other necessities such as food and childcare.[19]

Eligibility to participate in Florida's state and federally-funded housing programs is determined by area median income (AMI) or statewide median family income, which is published annually by the United States Department of Housing and Urban Development (HUD).[20] In Florida, the current statewide AMI for a family of four is $88,600 (as family size changes, the income range also varies):[21]

- Extremely-low-income – earning up to 30 percent AMI (at or below $26,600);[22]
- Very-low-income – earning from 30.01 to 50 percent AMI ($26,601 to $44,300);[23]
- Low-income – earning from 50.01 to 80 percent AMI ($44,301 to $70,900);[24] and
- Moderate-income – earning from 80.01 to 120 percent of AMI ($70,901 to $106,320).[25]

As of 2024, Florida had only 24 affordable and available rental units for every 100 extremely low-income renters.[26] In addition, there were little to no communities in Florida that could provide enough housing to support this group of renters, which is primarily made up of low-income workers, retirees, and people with disabilities.[27]

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (Corporation) was created in 1997 as a public-private entity to assist in providing a range of affordable housing opportunities for Floridians.[28] The Corporation is held by the state and housed within the Department of Commerce (Department).[29] Additionally, the Corporation is a separate budget entity and its operations are not subject to control, supervision, or direction by the Department.[30]

The Corporation's mission is to increase the supply of safe, affordable housing for individuals and families in Florida.[31] The Corporation encourages the investment of private capital and facilitates public and private sector housing partnerships.[32] As a financial institution, the Corporation administers federal and state resources to finance the development and preservation of affordable rental housing and assist homebuyers with financing and down payments.[33]

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[17] Florida Housing Coalition, *2024 Home Matters Report*, p. 2. https://flhousing.org/wp-content/uploads/2024/08/FHC-2024-Home-Matters-Report.pdf (last visited Mar. 21, 2025).
[18] *Id.*
[19] *Id.*
[20] *See* U.S. Dept. of Housing and Urban Development: Office of Policy Development and Research, *Income Limits*, https://www.huduser.gov/portal/datasets/il.html#documents_2024 (last visited Mar. 21, 2025).
[21] U.S. Dept. of Housing and Urban Development: Office of Policy Development and Research, *FY 2024 State Income Limits: Florida*, https://www.huduser.gov/portal/datasets/il/il2024/2024summary.odn?inputname=STTLT*1299999999%2BFlorida&selection_type=county&stname=Florida&statefp=12.0&year=2024 (last visited Mar. 21, 2025).
[22] *Id. See also* s. 420.0004(9), F.S.
[23] *Supra* note 22. *See also* s. 420.0004(17), F.S.
[24] *Supra* note 22. *See also* s. 420.0004(11), F.S.
[25] *Supra* note 22. *See also* s. 420.0004(12), F.S.
[26] *Supra* note 18, at p. 2.
[27] *Id.*
[28] *See* ch. 97-167, Laws of Fla.
[29] S. 420.504(1), F.S.
[30] S. 420.504(3), F.S.
[31] S. 420.502, F.S. *See also* Florida Housing Finance Corporation, *About Florida Housing*, https://www.floridahousing.org/about-florida-housing/ (last visited Mar. 21, 2025);
[32] S. 420.502, F.S. *See also* Office of Program Policy Analysis & Government Accountability, *Report No. 09-S15*: *Florida Housing Finance Corporation Overview*, The Florida Legislature Sunset Review, Jan. 2009, p. 1. https://oppaga.fl.gov/Documents/Reports/09-15S.pdf (last visited Mar. 21, 2025).
[33] *See* Florida Housing Finance Corporation, *About Florida Housing*, https://www.floridahousing.org/about-florida-housing/ (last visited Mar. 21, 2025).

The Corporation may prevent an applicant or an applicant's affiliate from participating in any of its programs under certain circumstances if the applicant or affiliate has:

- Made a material misrepresentation or engaged in fraudulent actions in connection with any Corporation program;
- Been convicted or found guilty of, or entered a plea of guilty or nolo contendere[34] to, a crime in any jurisdiction which directly relates to the financing, construction, or management of affordable housing or the fraudulent procurement of state or federal funds;
- Been excluded from any federal funding program related to providing housing, including debarment from participation in federal housing programs by the U.S. Department of Housing and Urban Development;
- Been excluded from any federal or Florida procurement programs;
- Offered or given consideration, other than the consideration to provide affordable housing, with respect to a local contribution;
- Demonstrated a pattern of noncompliance and a failure to correct any such noncompliance after notice from the Corporation in the construction, operation, or management of one or more developments funded through a Corporation program; or
- Materially or repeatedly violated any condition imposed by the corporation in connection with the administration of a corporation program, including a land use restriction agreement, an extended use agreement, or any other financing or regulatory agreement with the corporation.[35]

Land Use for Affordable Housing Development

All development, both public and private, and all development orders[36] approved by a local government must be consistent with the local government's comprehensive plan.[37] The Growth Management Act requires every county and municipality to create and implement a comprehensive plan to guide future development.[38] A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.[39]

The future land use element designates proposed future general distribution, location, and extent of the uses of land. Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities. The approximate acreage and the general range of density or intensity of use must be provided for each land use category.[40] The specific use and intensities for specific parcels are decided by a more detailed, implementing zoning map.[41]

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[34] By entering a plea of nolo contendere, a defendant does not admit the allegations of the charge against him or her in a technical sense, but rather represents the defendant's unwillingness to contest the charge. *Grizzard v. State*, 881 So. 2d 673, at 676-677 (Fla. Dist. Ct. App. 2004). *See also, Vinson v. State*, 345 So.2d 711 (Fla.1977); *Kelly v. Dep't of Health & Rehab. Serv.*, 610 So.2d 1375 (Fla. 2d DCA 1992).

[35] S. 420.518(1), F.S.

[36] "Development order" means any order granting, denying, or granting with conditions an application for a development permit. See s. 163.3164(15), F.S. "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. See s. 163.3164(16), F.S.

[37] S. 163.3194(3), F.S.

[38] S. 163.3167(2), F.S.

[39] S. 163.3177(6), F.S. The 10 required elements include capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Throughout statutes exist plans and programs that may be added as optional elements.

[40] S. 163.3177(6)(a), F.S.

[41] Richard Grosso, A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215, 34 J. Envtl. L. & Litig. 129, 154 (2019) citing *Brevard Cty. v. Snyder*, 627 So. 2d 469, 475 (Fla. 1993).

The housing element sets forth guidelines and strategies for the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, provision of adequate sites for future housing, and distribution of housing for a range of incomes and types.[42]

A comprehensive plan is implemented through the adoption of land development regulations[43] that are consistent with the plan and that contain specific and detailed provisions necessary to implement the plan.[44] Such regulations must, among other requirements, regulate the subdivision of land and the use of land for the land use categories in the land use element of the comprehensive plan.[45] Substantially affected persons have the right to maintain administrative actions that ensure land development regulations are implemented and consistent with the comprehensive plan.[46]

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government first amends its comprehensive plan. State law requires a proposed comprehensive plan amendment to receive two public hearings, the first held by the local planning board and subsequently by the governing board.[47] Following the hearings, the local government must transmit the plan to several statutorily identified reviewing agencies, including the Department of Commerce (Department), for review.[48] Most plan amendments are placed into the expedited state review process, while plan amendments relating to large-scale developments are placed into the state coordinated review process.[49]

Live Local Act

The Live Local Act, which became law in 2023, preempts certain county and municipal zoning and land use decisions to encourage development of affordable multifamily rental housing in targeted land use areas.[50] Specifically, counties and municipalities must allow a multi-family or mixed-use residential[51] rental development in any area zoned for commercial, industrial, or mixed-use if at least 40 percent of the residential units in the development are rental units that, for a period of at least 30 years, meet certain affordability requirements.[52]

Local governments are prohibited from restricting the density[53] of qualifying developments below the highest currently allowed density[54] on land within its jurisdiction where residential development is allowed and may not restrict the height below the highest currently allowed height for a commercial or residential development in its

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[42] S. 163.3177(6)(f), F.S.
[43] "Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. 163.3213. See s. 163.3164(26), F.S.
[44] S. 163.3202, F.S.
[45] *Id.*
[46] S. 163.3213, F.S.
[47] Ss. 163.3174(4)(a), F.S. and 163.3184, F.S.
[48] S. 163.3184, F.S.
[49] *See* ss. 163.3184 and 380.06, F.S. In the Expedited State Review Process, DEO reviews and approves or amends the proposed comprehensive plan amendment. This process can take 4 to 6 months. The State Coordinated Review Process is a more thorough, complex, multi-phase process. For more information, *see* Florida Commerce, *Amendments that Must Follow the State Coordinated Review Process; Procedures and Timeframes*, https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/amendments-that-must-follow-the-state-coordinated-review-process-procedures-and-timeframes (last visited Mar. 21, 2025).
[50] Ch. 2023-17, ss. 3, 5, Laws of Fla., codified as ss. 125.01055(7), F.S. and 166.04151(7), F.S.
[51] For mixed-use residential, at least 65 percent of the total square footage must be used for residential purposes. Ss. 125.01055(7)(a) and 166.04151(7)(a), F.S.
[52] Ss. 125.01055(7)(a) and 166.04151(7)(a), F.S.
[53] "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre, *see* s. 163.3164(12), F.S.
[54] For purposes of the Live Local Act, "highest currently allowed density" does not include the density of any building that met the requirements of the Live Local Act or the density of any building that has received any bonus, variance, or other special exception for density provided in the local government's land development regulations as an incentive for development. Ss. 125.01055(7)(b) and 166.04151(7)(b), F.S.

jurisdiction within one mile of the proposed development or three stories, whichever is higher.[55] Local governments are also prohibited from restricting the floor area ratio of a proposed development below 150 percent of the highest currently allowed floor area ratio on land within its jurisdiction where residential development is allowed.[56]

An application for a development must be administratively approved, and no further action is required from the governing body of the local government, if the development satisfies the local government's land development regulations for multifamily in areas zoned for such use and is otherwise consistent with the jurisdiction's comprehensive plan, with the exception of provisions establishing density, floor area ratios, height, and land use requirements.[57]

A local government must consider reducing parking requirements for these developments if they are located within one-quarter mile of a transit stop, as the term is defined in the local government's land development code, and the transit stop is accessible from the development.[58]

These provisions do not apply to recreational and commercial working waterfronts in industrial areas.[59] Qualifying developments must comply with all other applicable state and local laws and regulations.[60]

These provisions are effective until October 1, 2033.[61]

Ad Valorem Tax Exemption for Affordable Housing

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.[62] The property appraiser annually determines the "just value"[63] of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[64] Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31 of the following year.

The Florida Constitution prohibits the state from levying ad valorem taxes,[65] and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.[66]

Ad Valorem Tax Exemption for Newly Constructed Affordable Housing

The Live Local Act established a new ad valorem tax exemption for owners of newly constructed multifamily rental developments who use a portion of the development to provide affordable housing.[67] Eligible property includes units in a newly constructed multifamily development containing more than 70 units dedicated to housing natural

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[55] Ss. 125.01055(7)(b) and 166.04151(7)(b), F.S.
[56] Ss. 125.01055(7)(c) and 166.04151(7)(c), F.S.
[57] Ss. 125.01055(7)(e) and 166.04151(7)(e).
[58] Ss. 125.01055(7)(f) and 166.04151(7)(f).
[59] Ss. 125.01055(7)(k) and 166.04151(7)(k).
[60] Ss. 125.01055(7)(i) and 166.04151(7)(i).
[61] Ss. 125.01055(7)(l) and 166.04151(7)(l), F.S.
[62] Both real property and tangible personal property are subject to tax. S. 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. S. 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.
[63] Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. *See Walter v. Shuler,* 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County,* 275 So. 2d 4 (Fla. 1973).
[64] *See* s. 192.001(2) and (16), F.S., F.S.
[65] FLA. CONST. art. VII, s. 1(a).
[66] *See* FLA. CONST. art. VII, s. 4.
[67] Ch. 2023-17, s. 8, Laws of Fla, codified as s. 196.1978(3), F.S.

persons or families below certain income thresholds.[68] However, units subject to an agreement with the Corporation are not eligible for the exemption.[69]

"Newly constructed" is defined as an improvement substantially completed within five years before the property owner's first application for a certification notice.[70] The units must be occupied by such individuals or families and rent limited so as to provide affordable housing at either the 80 or 120 percent AMI threshold.[71] Rent for such units may not exceed 90 percent of the fair market value of rent as determined by a rental market study.[72]

Qualified property used to provide affordable housing at the 80 to 120 percent AMI threshold receives an exemption of 75 percent of the assessed value of the affordable units, while such property providing affordable housing up to the 80 percent AMI threshold receives a complete ad valorem tax exemption for the affordable units.[73] When determining the value of a unit for purposes of applying an exemption, the property appraiser must include in such valuation the proportionate share of the residential common areas, including the land, fairly attributable to the unit.[74]

To receive this exemption, a property owner must apply by March 1 to the property appraiser, accompanied by a certification notice from the Corporation.[75] To receive the Corporation's certification, a property owner must submit a request on a form including the most recent market study, which must have been conducted by an independent certified general appraiser in the preceding three years, a list of units for which the exemption is sought, the rent amount received for each unit, and a sworn statement restricting the property for a period of not less than three years to provide affordable housing.[76]

The certification process is administered within the Corporation. The Corporation is responsible for publishing the deadline for submission, reviewing each request, sending certification notices to both the successful property owner and the appropriate property appraiser, and notifying unsuccessful property owners and providing reasons for the denial.[77]

This exemption first applied to the 2024 tax roll and will expire on December 31, 2059.

Local Option Affordable Housing Ad Valorem Exemption

The Live Local Act authorizes counties and municipalities to enact an ad valorem tax exemption for certain property used for providing affordable housing.[78]

Portions of property eligible for the exemption must be utilized to house persons or families meeting the extremely-low- limit[79] or with incomes between 30 to 60 percent of AMI, be contained in a multifamily project of at least 50 units where at least 20 percent are reserved for affordable housing, and have rent set such that it provides affordable housing to people in the target income bracket, or no higher than 90 percent of the fair market rent value as determined by a rental market study, whichever is less.[80]

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[68] S. 196.1978(3)(b), F.S.
[69] S. 196.1978(3)(j), F.S.
[70] S. 196.1978(3)(a)2., F.S.
[71] S. 196.1978(3)(b)1., F.S.
[72] S. 196.1978(3)(b)3., F.S.
[73] S. 196.1978(3)(d)1., F.S.
[74] S. 196.1978(3)(d)2., F.S.
[75] S. 196.1978(3)(e), F.S.
[76] S. 196.1978(3)(f), F.S.
[77] S. 196.1978(3)(g), F.S.
[78] Ch. 2023-17, s. 9, Laws of Fla., codified as s. 196.1979, F.S.
[79] s. 420.0004(9), F.S.
[80] S. 196.1979(1)(a)1.-3., F.S.

Additionally, the property must not have been cited for code violations on three or more occasions in the preceding 24 months and must not have outstanding code violations or related fines.[81]

In adopting this exemption, a local government may choose to offer either or both an exemption for extremely-low-income (up to 30 percent AMI) and for incomes between 30 to 60 percent AMI targets. The value of the exemption is up to 75 percent of the assessed value of each unit if less than 100 percent of the multifamily project's units are used to provide affordable housing, or up to 100 percent of the assessed value if all of the project's units are used to provide affordable housing.[82]

An ordinance enacting such an exemption must:

- Be adopted under normal non-emergency procedures.
- Designate the local entity under the supervision of the governing body that must develop, receive, and review applications for certification and develop notices of determination of eligibility.
- Require the property owner to apply for certification on a form including the most recent market study, which must have been conducted by an independent certified general appraiser in the preceding three years; a list of units for which the exemption is sought; and the rent amount received for each unit.
- Require the designated entity to verify and certify the property as having met the requirements for the exemption, and notify unsuccessful applicants with the reasons for denial.
- Set out the requirements for each unit discussed above.
- Require the property owner to submit an application for exemption accompanied by certification to the property appraiser by March 1.
- Specify that such exemption only applies to taxes levied by the unit of government granting the exemption.
- Specify that the property may not receive such an exemption after the expiration of the ordinance granting the exemption.
- Identify the percentage of assessed value to be exempted, and whether such exemption applies to very-low-income, extremely-low-income, or both.
- Require that the deadline to submit an application and a list of certified properties be published on the local government's website.[83]

The ordinance must expire before the fourth January 1 after adoption; however, the local governing body may adopt a new ordinance renewing the exemption.[84]

If the property appraiser determines that such an exemption has been improperly granted within the last 10 years, the property appraiser must serve the owner with a notice of intent to record a tax lien. Such property will be subject to the taxes improperly exempted, plus a penalty of 50 percent and 15 percent annual interest. Penalty and interest amounts do not apply to exemptions erroneously granted due to clerical mistake or omission by the property appraiser.[85]

Accessory Dwelling Units

The Legislature has taken measures in recent years to address Florida's need for more affordable housing.[86] One of those measures included encouraging the construction of accessory dwelling units (ADUs) in single-family residential areas to increase the availability of affordable rentals.

An ADU is an ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit.[87] ADUs can go by many different

[81] S. 196.1979(1)(a)4., F.S.
[82] S. 196.1979(1)(b), F.S.
[83] S. 196.1979(3), F.S.
[84] S. 196.1979(5), F.S.
[85] S. 196.1979(6), F.S.
[86] *See* chs. 2023-17, and 2024-188, Laws of Fla.
[87] S. 163.31771(2)(a), F.S.

names such as "carriage house," "mother-in-law suite," or "coach house," and are quite common throughout the United States.[88]

ADUs offer benefits to both individual homeowners and the wider communities where they exist.[89] For individuals, ADUs:

- Allow families to provide care to aging or disabled relatives, while still providing those relatives some independence.
- Provide young adults an affordable housing option as a first step after college.
- May be a source of rental income to the landowner.[90]

For the wider community, ADUs:

- Are a more affordable housing alternative compared to a single-family residence or apartment unit with costly neighborhood and amenity fees.
- Create diverse neighborhoods with a variety of residents of different ages and backgrounds.[91]

Under current law, local governments in Florida are authorized – but not required – to adopt ordinances that allows ADUs in any area zoned for single-family residential use.[92] An application for a permit to construct an ADU must be accompanied by an affidavit from the applicant in which the applicant attests that the unit will be rented at an affordable rate to extremely-low-income, very-low-income, low-income, or moderate-income persons.[93]

Manufactured Homes

Manufactured homes are constructed entirely or partially in an off-site factory, transported via roadways, and then placed or assembled on a site-built foundation.[94] Manufactured homes are constructed according to standards administered by the U.S. Department of Housing and Urban Development (HUD), known as the Manufactured Home Construction and Safety Standards (MHCS Standards).[95, 96]

Manufactured housing is the largest form of unsubsidized affordable housing in the U.S. and the only type of housing built to federal construction and safety standards.[97] The Office of Manufactured Housing Programs administers the National Manufactured Housing Construction and Safety Standards Act of 1974,[98] which authorizes HUD to establish the MHCS Standards for the design and construction of manufactured homes to assure the quality, durability, safety, and affordability of such homes.[99]

Impact Fees

Impact fees are a type of regulatory fee "imposed by local governments against new development to provide for capital facilities' costs made necessary by population growth. Rather than imposing the costs of these additional

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[88] City of Tallahassee: Growth Management Department, *Zoning Spotlight: Accessory Dwelling Units*, March 2024, p. 1. https://www.talgov.com/uploads/public/documents/growth/zoning_spot_231010.pdf (last visited Mar. 21, 2025).
[89] *Id.*
[90] *Id.*
[91] *Id.*
[92] S. 163.31771(3), F.S.
[93] S. 163.31771(4), F.S.
[94] Federal Emergency Management Agency, *Manufactured v. Modular Homes*, https://emilms.fema.gov/is_0285/groups/134.html (last visited Mar. 11, 2025).
[95] The MHCS Standards are codified in 24 C.F.R. Part 3280.
[96] The MHCS Standards require manufactured homes to be constructed on a permanent chassis. *See* U.S. Department of Housing and Urban Development, *Manufactured Housing and Standards – Frequently Asked Questions*, https://www.hud.gov/program_offices/housing/mhs/faqs (last visited Mar. 11, 2025).
[97] Manufactured Housing Institute, *About Manufactured Homes*, https://www.manufacturedhousing.org/about-manufactured-homes/ (last visited Mar. 11, 2025).
[98] 42 U.S.C. § 5401-5426.
[99] U.S. Department of Housing and Urban Development, HUD's Office of Manufactured Housing Programs Homepage, https://www.hud.gov/program_offices/housing/mhs (last visited Mar. 11, 2025).

capital facilities upon the general public, the purpose of impact fees is to shift the expense burden to newcomers."[100] Examples of capital facilities include the provision of additional water and sewer systems, schools, libraries, parks and recreation facilities.[101] Impact fees are typically assessed using a fee schedule that sets forth the charge per type of dwelling unit or per square footage of floor space.[102] The charges are usually paid at the time the building permit is approved.[103]

The Florida Impact Fee Act (Act) provides requirements and procedures to be followed by a county, municipality, or special district when it adopts an impact fee.[104] These requirements include basing an impact fee's calculation on recent and localized data and detailed accounting and reporting of collections and expenditures.[105]

Under the Act, a local government, school district, or special district may increase an impact fee rate beyond certain phase-in limitations[106] by establishing the need for the increase, provided the following criteria are met:

- A demonstrated-need study justifying any increase in excess of those authorized by the Act has been completed within the 12 months before the adoption of the impact fee increase and expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitations.
- The local government jurisdiction has held not less than two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the phase-in limitations set forth in the Act.
- The impact fee increase ordinance is approved by at least a two-thirds vote of the governing body.[107]

Growth Policy Act

Under Florida's Growth Policy Act, a local government may designate a geographic area within its jurisdiction as an urban infill and redevelopment area for the purpose of targeting economic development, job creation, housing, transportation, crime prevention, neighborhood revitalization and preservation, and land use incentives to encourage urban infill and redevelopment within the urban core.[108] As part of the preparation and implementation of an urban infill and redevelopment plan, a collaborative community participation process must be implemented to include each neighborhood within the area targeted for designation as an urban infill and redevelopment area.[109]

Under current law, for a local government to designate an urban infill and redevelopment area, it must amend its comprehensive land use plan to delineate the boundaries of the urban infill and redevelopment area within the future land use element of its comprehensive plan pursuant to its adopted urban infill and redevelopment plan.[110]

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[100] Florida's Office of Economic and Demographic Research, *Local Government Financial Information Handbook* (Nov. 2016), p. 13, https://edr.state.fl.us/Content/local-government/reports/lgfih16.pdf (last visited Mar. 21, 2025).
[101] Florida Housing Finance Corporation, *Overview of Impact Fees and Affordable Housing* (Oct. 2017), p. 1, https://www.floridahousing.org/docs/default-source/aboutflorida/august2017/october2017/TAB_3.pdf (last visited Mar. 21, 2025).
[102] *Id.*
[103] *Id.*
[104] S. 163.31801, F.S.
[105] *Supra* note 95, p. 1.
[106] For purposes of this section in the Act, the phase-in limitations include the following:

- An increase to a current impact fee rate of not more than 25 percent of the current rate must be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.
- An increase to a current impact fee rate which exceeds 25 percent but is not more than 50 percent of the current rate must be implemented in four equal installments beginning with the date the increased fee is adopted.
- An impact fee increase may not exceed 50 percent of the current impact fee rate.
- An impact fee may not be increased more than once every 4 years. S. 163.31801(6)(b)–(e), F.S.

[107] S. 163.31801(6)(g), F.S.
[108] S. 163.2517(1), F.S.
[109] S. 163.2517(2)(a), F.S.
[110] S. 163.2517(4), F.S.

After the preparation of an urban infill and redevelopment plan or designation of an existing plan, the local government must adopt the plan by ordinance. Notice for the public hearing on the ordinance must be in the form established in s. 166.041(3)(c)2., F.S., for municipalities, and s. 125.66(5)(b)2., F.S., for counties.[111]

Florida's Homestead Exemption

Property owners in Florida may be eligible for exemptions and additional benefits that can reduce their property tax liability.[112] When someone owns property and makes it his or her permanent residence or the permanent residence of his or her dependent, the property may be eligible to receive a homestead exemption up to $50,000.[113] The first $25,000 applies to all property taxes, including school district taxes.[114] The additional exemption up to $25,000 applies to the assessed value between $50,000 and $75,000 and only to non-school taxes.[115]

Under current law, if a property owner that qualifies for the homestead tax exemption rents their home to a tenant, the property could be considered abandoned which could cause the property owner to lose the exemption.[116] However, the abandonment of a homestead after January 1 of any year does not affect the homestead exemption for tax purposes for that particular year unless the property is rented for more than 30 days per calendar year for 2 consecutive years.[117]

District School Boards

Under Florida law, a district school board may use portions of school sites purchased within the guidelines of the State Requirements for Educational Facilities,[118] land deemed not usable for educational purposes because of location or other factors, or land declared as surplus by the board to provide sites for affordable housing for teachers and other district personnel and, in areas of critical state concern, for other essential services personnel as defined by local affordable housing eligibility requirements, independently or in conjunction with other local governments and planning authorities.[119]

Prohibited Discrimination in Land Use and Permitting Decisions

Florida law makes it unlawful to discriminate in land use decisions or in the permitting of development, based on race, color, national origin, sex, disability, familial status, religious, or except as otherwise provided by law, the source of financing of a development or proposed development.[120] Currently, the state has not waived sovereign immunity for itself and its agencies and political subdivisions for causes of action based on these provisions.

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[111] S. 163.2517(5), F.S.
[112] Department of Revenue, *Property Tax Exemptions and Additional Benefits*, https://floridarevenue.com/property/Pages/Taxpayers_Exemptions.aspx#:~:text=When%20someone%20owns%20property%20and,by%20as%20much%20as%20%2450%2C000. (last visited Mar. 21, 2025).
[113] Department of Revenue, *Property Tax Information for Homestead Exemption* (Aug. 2024), https://floridarevenue.com/property/Documents/pt113.pdf (last visited Mar. 21, 2025). *See also* s. 196.031, F.S.
[114] Department of Revenue, *Property Tax Information for Homestead Exemption* (Aug. 2024), https://floridarevenue.com/property/Documents/pt113.pdf (last visited Mar. 21, 2025). *See also* s. 196.031, F.S.
[115] Department of Revenue, *Property Tax Information for Homestead Exemption* (Aug. 2024), https://floridarevenue.com/property/Documents/pt113.pdf (last visited Mar. 21, 2025). *See also* s. 196.031, F.S.
[116] The rental of all or substantially all of a dwelling previously claimed to be a homestead for tax purposes shall constitute the abandonment of such dwelling as a homestead, and the abandonment continues until the dwelling is physically occupied by the owner. S. 196.061(1), F.S.
[117] *Id.*
[118] The State Requirements for Educational Facilities (SREF) are part of the Florida Building Code. SREF requirements apply to construction, renovation, and remodeling of public educational facilities owned by district school boards and Florida College System boards of trustees. *See* Florida Legislature Office of Program Policy Analysis and Government Accountability, *The State Requirements for Educational Facilities Should Be Retained; Some Modifications Could Be Made* (Jan. 2017), Report No. 17-04, at p. 1, https://fsba.org/wp-content/uploads/2016/02/OPPAGA-SREF-Report-1-31-17.pdf (last visited Mar. 21, 2025). *See also* Florida Department of Education, *State Requirements for Educational Facilities* (Nov. 4, 2014), https://www.fldoe.org/core/fileparse.php/7738/urlt/srefrule14.pdf (last visited Mar. 21, 2025).
[119] S. 1001.43(12), F.S.
[120] S. 760.26, F.S.

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2023	CS/CS/HB 627	Busatta, Lopez, V.	Calatayud	Approved by the Governor. Created the Live Local Act.
2024	CS/CS/HB 1239	Lopez, V.	Calatayud	Approved by the Governor. Made certain changes to the Live Local Act.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Housing, Agriculture & Tourism Subcommittee	14 Y, 1 N, As CS	3/26/2025	Curtin	Fletcher
THE CHANGES ADOPTED BY THE COMMITTEE:	• Prohibited local governments from adopting any ordinance that limits or prohibits affordable housing. • Clarified the authority of local governments to approve the development of affordable housing on certain lands owned by religious institutions, regardless of the underlying zoning. • Defined "allowable density" as the density prescribed for a property without additional requirements to procure and transfer density or development units from other properties. • Allowed, rather than required, local governments to authorize the inclusion of certain adjacent parcels as part of a multifamily development, if the residential units meet affordability requirements. • Revised the definition of "highest height" to include the height of the tallest building in a local government's jurisdiction located within 1 mile of a proposed development if the building exceeds the highest height allowed on or after July 1, 2023. • Required certain proposed affordable housing developments to be treated as a conforming use, notwithstanding a local government's comprehensive plan, future land use designation, or zoning. • Removed the cause of action for certain property owners that are adversely affected by certain building moratoriums. • Required any ordinance that designates property as a historic landmark to have a printed or digital map of the property readily available, and required the map to be submitted to the State Historic Preservation Officer no later than June 1, 2027. • Restored the definitions of "compatibility" and "urban service area" under the Community Planning Act (CPA) to current law. • Modified the definition of "accessory dwelling unit" to include certain manufactured homes. • Required both private and public sector employers, who partner with developers on housing projects to support essential service and high-demand career employees, to provide land and financial support for the housing projects. • Defined "person" for purposes of the Fair Housing Act (FHA). • Required a court, upon finding that a person has committed a discriminatory housing practice under the FHA, to issue an order prohibiting the practice and providing certain affirmative relief from the effects of the practice.			
Intergovernmental Affairs Subcommittee				
Civil Justice & Claims Subcommittee				
Commerce Committee				

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.
