

CS/HB 1389

2026

A bill to be entitled
An act relating to affordable housing; amending ss. 125.01055 and 166.04151, F.S.; requiring counties and municipalities, respectively, to authorize multifamily and mixed-use residential uses as allowable uses for specified property; requiring certain proposed developments to be within specified geographic boundaries; requiring certain counties, municipalities, and school districts to be a party to an application for certain proposed developments; prohibiting counties and municipalities, respectively, from restricting the height of certain proposed developments in a certain manner or requiring setbacks or step-backs that are more restrictive than certain zoning regulations; revising the definitions of the terms "commercial use" and "industrial use"; authorizing applicants for certain proposed developments to notify, by a specified date, the county or municipality, as applicable, on the applicant's intent to proceed under certain provisions of law; requiring counties and municipalities to allow certain applicants to submit revised applications, written requests, or notices of intent to account for changes made by the act; amending s. 333.03, F.S.; providing that specified provisions of law relating to

CS/HB 1389

2026

26 proposed developments do not apply to airport zoning
27 regulations unless the governing body of the airport
28 approves the application; amending s. 760.22, F.S.;
29 revising the definition of the term "person"; amending
30 s. 760.26, F.S.; prohibiting certain discriminatory
31 practices based on financing of a development, or a
32 proposed development, for affordable housing; amending
33 s. 760.35, F.S.; waiving the state's sovereign
34 immunity for certain causes of action; providing
35 applicability; providing an effective date.
36

37 Be It Enacted by the Legislature of the State of Florida:

38
39 **Section 1. Paragraphs (a), (d), and (n) of subsection (7)
40 of section 125.01055, Florida Statutes, are amended to read:**

41 125.01055 Affordable housing.—

42 (7) (a) A county must authorize multifamily and mixed-use
43 residential as allowable uses in any area zoned for commercial,
44 industrial, or mixed use; and in portions of any flexibly zoned
45 area such as a planned unit development permitted for
46 commercial, industrial, or mixed use; and on property owned by a
47 county, municipality, or school district, if at least 40 percent
48 of the residential units in a proposed multifamily development
49 are rental units that, for a period of at least 30 years, are
50 affordable as defined in s. 420.0004. Notwithstanding any other

51 law, local ordinance, or regulation to the contrary, a county
52 may not require a proposed multifamily development to obtain a
53 zoning or land use change, special exception, conditional use
54 approval, variance, transfer of density or development units,
55 amendment to a development of regional impact, or comprehensive
56 plan amendment for the building height, zoning, and densities
57 authorized under this subsection. For mixed-use residential
58 projects, at least 65 percent of the total square footage must
59 be used for residential purposes. The county may not require
60 that more than 10 percent of the total square footage of such
61 mixed-use residential projects be used for nonresidential
62 purposes. A proposed development on property owned by a county,
63 municipality, or school district must be within the geographic
64 boundaries of the respective county, municipality, or school
65 district, and the respective county, municipality, or school
66 district must be a party to the application for the proposed
67 development.

68 (d)1. A county may not restrict the height of a proposed
69 development authorized under this subsection below the highest
70 currently allowed, or allowed on July 1, 2023, height for a
71 commercial or residential building located in its jurisdiction
72 within 1 mile of the proposed development or three stories,
73 whichever is higher. A county may not restrict the height of a
74 proposed development below the height authorized in this
75 subparagraph through other dimensional means, such as height

76 determined by setbacks or step-backs, or require setbacks or
77 step-backs that are more restrictive than the minimum setbacks
78 or step-backs of the underlying zoning applicable to the
79 proposed development. For purposes of this paragraph, the term
80 "highest currently allowed height" does not include the height
81 of any building that met the requirements of this subsection or
82 the height of any building that has received any bonus,
83 variance, or other special exception for height provided in the
84 county's land development regulations as an incentive for
85 development.

86 2. If the proposed development is adjacent to, on two or
87 more sides, a parcel zoned for single-family residential use
88 which is within a single-family residential development with at
89 least 25 contiguous single-family homes, the county may restrict
90 the height of the proposed development to 150 percent of the
91 tallest building on any property adjacent to the proposed
92 development, the highest currently allowed, or allowed on July
93 1, 2023, height for the property provided in the county's land
94 development regulations, or three stories, whichever is higher,
95 not to exceed 10 stories. For the purposes of this paragraph,
96 the term "adjacent to" means those properties sharing more than
97 one point of a property line, but does not include properties
98 separated by a public road.

99 3. If the proposed development is on a parcel with a
100 contributing structure or building within a historic district

101 which was listed in the National Register of Historic Places
102 before January 1, 2000, or is on a parcel with a structure or
103 building individually listed in the National Register of
104 Historic Places, the county may restrict the height of the
105 proposed development to the highest currently allowed, or
106 allowed on July 1, 2023, height for a commercial or residential
107 building located in its jurisdiction within three-fourths of a
108 mile of the proposed development or three stories, whichever is
109 higher. The term "highest currently allowed" in this paragraph
110 includes the maximum height allowed for any building in a zoning
111 district irrespective of any conditions.

112 (n) As used in this subsection, the term:

113 1. "Commercial use" means activities associated with the
114 sale, rental, or distribution of products or the performance of
115 services related thereto. The term includes, but is not limited
116 to, such uses or activities as retail sales; wholesale sales;
117 rentals of equipment, goods, or products; offices; restaurants;
118 public lodging establishments as described in s. 509.242(1)(a);
119 food service vendors; sports arenas; theaters; tourist
120 attractions; and other for-profit business activities. A parcel
121 zoned to permit such uses by right without the requirement to
122 obtain a variance or waiver is considered commercial use for the
123 purposes of this section, irrespective of the local land
124 development regulation's listed category or title. The term does
125 not include home-based businesses or cottage food operations

126 undertaken on residential property, public lodging
127 establishments as described in s. 509.242(1)(c), or uses that
128 are accessory, ancillary, incidental to the allowable uses, or
129 allowed only on a temporary basis. Recreational uses, such as
130 golf courses, tennis courts, swimming pools, and clubhouses,
131 within an area designated for residential use are not commercial
132 use, irrespective of how they are operated. Farm and farm
133 operations, as those terms are defined in s. 823.14(3), and uses
134 associated therewith, including the packaging and sale of
135 products raised on the premises, are not commercial use.

136 2. "Industrial use" means activities associated with the
137 manufacture, assembly, processing, or storage of products or the
138 performance of services related thereto. The term includes, but
139 is not limited to, such uses or activities as automobile
140 manufacturing or repair, boat manufacturing or repair, junk
141 yards, ~~meat packing facilities, citrus processing and packing~~
142 ~~facilities, produce processing and packing facilities,~~
143 electrical generating plants, water treatment plants, sewage
144 treatment plants, and solid waste disposal sites. A parcel zoned
145 to permit such uses by right without the requirement to obtain a
146 variance or waiver is considered industrial use for the purposes
147 of this section, irrespective of the local land development
148 regulation's listed category or title. The term does not include
149 uses that are accessory, ancillary, incidental to the allowable
150 uses, or allowed only on a temporary basis. Recreational uses,

151 such as golf courses, tennis courts, swimming pools, and
152 clubhouses, within an area designated for residential use are
153 not industrial use, irrespective of how they are operated. Farm
154 and farm operations, as those terms are defined in s. 823.14(3),
155 and uses associated therewith, including the packaging and sale
156 of products raised on the premises, are not industrial use.

157 3. "Mixed use" means any use that combines multiple types
158 of approved land uses from at least two of the residential use,
159 commercial use, and industrial use categories. The term does not
160 include uses that are accessory, ancillary, incidental to the
161 allowable uses, or allowed only on a temporary basis.

162 Recreational uses, such as golf courses, tennis courts, swimming
163 pools, and clubhouses, within an area designated for residential
164 use are not mixed use, irrespective of how they are operated.

165 4. "Planned unit development" has the same meaning as
166 provided in s. 163.3202(5) (b) .

167 **Section 2. Paragraphs (a), (d), and (n) of subsection (7)**
168 **of section 166.04151, Florida Statutes, are amended to read:**

169 166.04151 Affordable housing.—

170 (7) (a) A municipality must authorize multifamily and
171 mixed-use residential as allowable uses in any area zoned for
172 commercial, industrial, or mixed use; and in portions of any
173 flexibly zoned area such as a planned unit development permitted
174 for commercial, industrial, or mixed use; and on property owned
175 by a county, municipality, or school district, if at least 40

CS/HB 1389

2026

176 percent of the residential units in a proposed multifamily
177 development are rental units that, for a period of at least 30
178 years, are affordable as defined in s. 420.0004. Notwithstanding
179 any other law, local ordinance, or regulation to the contrary, a
180 municipality may not require a proposed multifamily development
181 to obtain a zoning or land use change, special exception,
182 conditional use approval, variance, transfer of density or
183 development units, amendment to a development of regional
184 impact, amendment to a municipal charter, or comprehensive plan
185 amendment for the building height, zoning, and densities
186 authorized under this subsection. For mixed-use residential
187 projects, at least 65 percent of the total square footage must
188 be used for residential purposes. The municipality may not
189 require that more than 10 percent of the total square footage of
190 such mixed-use residential projects be used for nonresidential
191 purposes. A proposed development on property owned by a county,
192 municipality, or school district must be within the geographic
193 boundaries of the respective county, municipality, or school
194 district, and the respective county, municipality, or school
195 district must be a party to the application for the proposed
196 development.

197 (d)1. A municipality may not restrict the height of a
198 proposed development authorized under this subsection below the
199 highest currently allowed, or allowed on July 1, 2023, height
200 for a commercial or residential building located in its

201 jurisdiction within 1 mile of the proposed development or three
202 stories, whichever is higher. A municipality may not restrict
203 the height of a proposed development below the height authorized
204 in this subparagraph through other dimensional means, such as
205 height determined by setbacks or step-backs, or require setbacks
206 or step-backs that are more restrictive than the minimum
207 setbacks or step-backs of the underlying zoning applicable to
208 the proposed development. For purposes of this paragraph, the
209 term "highest currently allowed height" does not include the
210 height of any building that met the requirements of this
211 subsection or the height of any building that has received any
212 bonus, variance, or other special exception for height provided
213 in the municipality's land development regulations as an
214 incentive for development.

215 2. If the proposed development is adjacent to, on two or
216 more sides, a parcel zoned for single-family residential use
217 that is within a single-family residential development with at
218 least 25 contiguous single-family homes, the municipality may
219 restrict the height of the proposed development to 150 percent
220 of the tallest building on any property adjacent to the proposed
221 development, the highest currently allowed, or allowed on July
222 1, 2023, height for the property provided in the municipality's
223 land development regulations, or three stories, whichever is
224 higher, not to exceed 10 stories. For the purposes of this
225 paragraph, the term "adjacent to" means those properties sharing

226 more than one point of a property line, but does not include
227 properties separated by a public road or body of water,
228 including manmade lakes or ponds. For a proposed development
229 located within a municipality within an area of critical state
230 concern as designated by s. 380.0552 or chapter 28-36, Florida
231 Administrative Code, the term "story" includes only the
232 habitable space above the base flood elevation as designated by
233 the Federal Emergency Management Agency in the most current
234 Flood Insurance Rate Map. A story may not exceed 10 feet in
235 height measured from finished floor to finished floor, including
236 space for mechanical equipment. The highest story may not exceed
237 10 feet from finished floor to the top plate.

238 3. If the proposed development is on a parcel with a
239 contributing structure or building within a historic district
240 which was listed in the National Register of Historic Places
241 before January 1, 2000, or is on a parcel with a structure or
242 building individually listed in the National Register of
243 Historic Places, the municipality may restrict the height of the
244 proposed development to the highest currently allowed, or
245 allowed on July 1, 2023, height for a commercial or residential
246 building located in its jurisdiction within three-fourths of a
247 mile of the proposed development or three stories, whichever is
248 higher. The term "highest currently allowed" in this paragraph
249 includes the maximum height allowed for any building in a zoning
250 district irrespective of any conditions.

CS/HB 1389

2026

(n) As used in this subsection, the term:

1. "Commercial use" means activities associated with the sale, rental, or distribution of products or the performance of services related thereto. The term includes, but is not limited to, such uses or activities as retail sales; wholesale sales; rentals of equipment, goods, or products; offices; restaurants; public lodging establishments as described in s. 509.242(1)(a); food service vendors; sports arenas; theaters; tourist attractions; and other for-profit business activities. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered commercial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. The term does not include home-based businesses or cottage food operations undertaken on residential property, public lodging establishments as described in s. 509.242(1)(c), or uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not commercial use, irrespective of how they are operated. Farm and farm operations, as those terms are defined in s. 823.14(3), and uses associated therewith, including the packaging and sale of products raised on the premises, are not commercial use.

2. "Industrial use" means activities associated with the

Page 11 of 16

CODING: Words **stricken** are deletions; words **underlined** are additions.

hb1389-01-c1

276 manufacture, assembly, processing, or storage of products or the
277 performance of services related thereto. The term includes, but
278 is not limited to, such uses or activities as automobile
279 manufacturing or repair, boat manufacturing or repair, junk
280 yards, ~~meat packing facilities, citrus processing and packing~~
281 ~~facilities, produce processing and packing facilities,~~
282 electrical generating plants, water treatment plants, sewage
283 treatment plants, and solid waste disposal sites. A parcel zoned
284 to permit such uses by right without the requirement to obtain a
285 variance or waiver is considered industrial use for the purposes
286 of this section, irrespective of the local land development
287 regulation's listed category or title. The term does not include
288 uses that are accessory, ancillary, incidental to the allowable
289 uses, or allowed only on a temporary basis. Recreational uses,
290 such as golf courses, tennis courts, swimming pools, and
291 clubhouses, within an area designated for residential use are
292 not industrial use, irrespective of how they are operated. Farm
293 and farm operations, as those terms are defined in s. 823.14(3),
294 and uses associated therewith, including the packaging and sale
295 of products raised on the premises, are not industrial use.

296 3. "Mixed use" means any use that combines multiple types
297 of approved land uses from at least two of the residential use,
298 commercial use, and industrial use categories. The term does not
299 include uses that are accessory, ancillary, incidental to the
300 allowable uses, or allowed only on a temporary basis.

301 Recreational uses, such as golf courses, tennis courts, swimming
302 pools, and clubhouses, within an area designated for residential
303 use are not mixed use, irrespective of how they are operated.

304 4. "Planned unit development" has the same meaning as
305 provided in s. 163.3202(5)(b).

306 **Section 3.** An applicant for a proposed development
307 authorized under s. 125.01055(7), Florida Statutes, or s.
308 166.04151(7), Florida Statutes, who submitted an application, a
309 written request, or a notice of intent pursuant to either
310 section to a county or municipality and such application,
311 written request, or notice of intent was received by the county
312 or municipality, as applicable, before July 1, 2026, may notify
313 the county or municipality by July 1, 2026, of the applicant's
314 intent to proceed under s. 125.01055(7), Florida Statutes, or s.
315 166.04151(7), Florida Statutes, as the section existed at the
316 time the application, written notice, or notice of intent was
317 submitted. A county or municipality, as applicable, must allow
318 an applicant who submitted an application, a written notice, or
319 a notice of intent before July 1, 2026, the opportunity to
320 submit a revised application, written request, or notice of
321 intent to account for the changes made by this act.

322 **Section 4. Subsection (5) of section 333.03, Florida**
323 **Statutes, is amended to read:**

324 333.03 Requirement to adopt airport zoning regulations.—
325 (5) Sections 125.01055(7) and 166.04151(7) do not apply to

326 any of the following, unless the respective application is
327 approved by the governing body of the airport:

328 (a) A proposed development near a runway within one-
329 quarter of a mile laterally from the runway edge and within an
330 area that is the width of one-quarter of a mile extending at
331 right angles from the end of the runway for a distance of 10,000
332 feet of any existing airport runway or planned airport runway
333 identified in the local government's airport master plan.

334 (b) A proposed development within any airport noise zone
335 identified in the federal land use compatibility table or in a
336 land-use zoning or airport noise regulation adopted by the local
337 government.

338 (c) A proposed development that exceeds maximum height
339 restrictions identified in the political subdivision's airport
340 zoning regulation adopted pursuant to this section.

341 **Section 5. Subsection (8) of section 760.22, Florida
342 Statutes, is amended to read:**

343 760.22 Definitions.—As used in ss. 760.20-760.37, the
344 term:

345 (8) "Person" includes one or more individuals,
346 corporations, partnerships, associations, labor organizations,
347 legal representatives, mutual companies, joint-stock companies,
348 trusts, unincorporated organizations, trustees, trustees in
349 bankruptcy, receivers, and fiduciaries, agencies, governmental
350 entities, and other legal or commercial entities.

351 **Section 6. Section 760.26, Florida Statutes, is amended to**
352 **read:**

353 760.26 Prohibited discrimination in land use decisions and
354 in permitting of development.—It is unlawful to discriminate in
355 land use decisions or in the permitting of development based on
356 race, color, national origin, sex, disability, familial status,
357 or religion, or, except as otherwise provided by law, based on
358 the source of financing of a development or proposed
359 development, including, but not limited to, financing of a
360 development or a proposed development for housing that is
361 affordable as defined in s. 420.0004.

362 **Section 7. Subsection (4) of section 760.35, Florida**
363 **Statutes, is amended to read:**

364 760.35 Civil actions and relief; administrative
365 procedures.—

366 (4) If the court finds that a person has engaged in a
367 discriminatory housing practice ~~has occurred~~, it must shall
368 issue an order prohibiting the practice and providing
369 affirmative relief from the effects of the practice, including
370 injunctive and other equitable relief, actual and punitive
371 damages, and reasonable attorney fees and costs. In accordance
372 with s. 13, Art. X of the State Constitution, the state, for
373 itself and its agencies or political subdivisions, waives
374 sovereign immunity for a cause of action based on a violation of
375 part II of chapter 760. Such waiver is limited only to actions

CS/HB 1389

2026

376 brought under this section.

377 **Section 8.** This act shall take effect July 1, 2026.