

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/CS/SB 48

INTRODUCER: Rules Committee; Appropriations Committee on Transportation, Tourism, and  
Economic Development Committee; Senator Gaetz and others

SUBJECT: Housing

DATE: January 27, 2026

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Fleming</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Griffin</u>	<u>Nortelus</u>	<u>ATD</u>	<b>Fav/CS</b>
3.	<u>Hackett</u>	<u>Kruse</u>	<u>RC</u>	<b>Fav/CS</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 48 contains provisions related to accessory dwelling units, and density bonus incentives for land donation.

The bill requires each county and municipality to enact an ordinance, by December 1, 2026, to allow accessory dwelling units (ADUs) in all single-family residential areas. Under current law, local governments are authorized, but not required, to enact such ordinance. The bill expressly allows local governments to regulate the permitting, construction, and use of ADUs, with specified exceptions.

The bill also allows certain land donated to a local government for affordable housing to be used to provide affordable housing to military families receiving the basic allowance for housing, and directs the Office of Program Policy Analysis and Government Accountability to evaluate the efficacy of using mezzanine finance, or second position short-term debt, to stimulate the construction of owner-occupied affordable housing, and evaluate potential for tiny homes to meet affordable housing needs.

The bill does not have a fiscal impact on state revenues or expenditures. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2026.

## II. Present Situation:

### Accessory Dwelling Units

Accessory dwelling units, or ADUs, have been proposed as a way to add housing stock to address the country's housing crisis.<sup>1</sup> ADUs are independent living spaces, outfitted with their own kitchen, bathroom, and sleeping area, and located on the same lot as a primary dwelling, but are smaller in size.<sup>2</sup> Florida Statutes defines ADU as “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.”<sup>3</sup>

ADUs go by many different names, including accessory apartments, secondary suites, and granny flats.<sup>4</sup> ADUs can be converted portions of existing homes (i.e., interior ADUs), additions to new or existing homes (i.e., attached ADUs), or new stand-alone accessory structures or converted portions of existing stand-alone accessory structures (i.e., detached ADUs).<sup>5</sup> The graphic below illustrates the various options for the construction or conversion of ADUs.



Source: AARP, ADUs Come in Many Shapes and Sizes<sup>6</sup>

Section 163.31771, F.S., finds that encouraging local governments to permit ADUs to increase the availability of affordable rentals serves a public purpose.<sup>7</sup> Current law expressly authorizes a local government to adopt an ordinance allowing ADUs in any area zoned for single-family residential use.<sup>8</sup> Further, an application for a building permit to construct an ADU must include

<sup>1</sup> Joint Center for Housing Studies of Harvard University, *How Nonprofits Are Using Accessory Dwelling Units as an Affordable Housing Strategy*, Sept. 26, 2024, available at: <https://www.jchs.harvard.edu/blog/how-nonprofits-are-using-accessory-dwelling-units-affordable-housing-strategy> (last visited January 7, 2026).

<sup>2</sup> *Id.*

<sup>3</sup> Section 163.31771(2)(a), F.S.

<sup>4</sup> American Planning Association, *Accessory Dwelling Units*, available at: <https://www.planning.org/knowledgebase/accessorydwellings/> (last visited January 7, 2026). ADUs are sometimes referred to as “granny flats” to denote their use in accommodating the housing needs of aging parents.

<sup>5</sup> *Id.*

<sup>6</sup> AARP, *AARP Livable Communities: ADUs Come in Many Shapes and Sizes*, available at: <https://www.aarp.org/livable-communities/housing/info-2019/adus-come-in-many-shapes-and-styles.html> (last visited January 7, 2026).

<sup>7</sup> Section 163.31771(1), F.S.

<sup>8</sup> Section 163.31771(3), F.S.

an affidavit 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.<sup>9</sup>

The Florida Housing Coalition studied the extent to which local governments recognized ADUs in their land development regulations and found the following:

- Of Florida's 67 counties, 16 did not address any ADU in their land development codes; and
- Of the 15 most populous cities in Florida, 11 of them explicitly allow ADUs in single-family districts.<sup>10</sup>

### **Homestead Exemptions**

The Florida Constitution establishes homestead protections for certain residential real estate in the state in three distinct ways. First, it provides homesteads, property owned and maintained as a person's primary residence, with an exemption from taxes.<sup>11</sup> Second, the homestead provisions protect the homestead from forced sale by creditors.<sup>12</sup> Third, the homestead provisions delineate the restrictions a homestead owner faces when attempting to alienate or devise the homestead property.<sup>13</sup>

Every person having legal or equitable title to real estate and who maintains a permanent residence on the real estate is deemed to establish homestead property. Homestead property is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.<sup>14</sup> An additional exemption applies to homestead property value between \$50,000 and \$75,000. This exemption is adjusted annually for inflation from the 2024 value of \$25,000 and does not apply to ad valorem taxes levied by school districts.<sup>15</sup>

### *Commercial Use of Homestead Property*

Section 196.012(13), F.S., provides that “‘[r]eal estate used and owned as a homestead’ means real property to the extent provided in s. 6(a), Art. VII of the State Constitution, but less any portion thereof used for commercial purposes, with the title of such property being recorded in the official records of the county in which the property is located. Property rented for more than 6 months is presumed to be used for commercial purposes.”<sup>16</sup>

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<sup>9</sup> Section 163.31771(4), F.S. The parameters defining the various income designations are specified in s 420.0004, F.S.

<sup>10</sup> See Florida Housing Coalition, *Accessory Dwelling Unit Guidebook*, April 2024, available at <https://www.flhousing.org/wp-content/uploads/2019/08/ADU-Guidebook.pdf> (last visited January 7, 2026).

<sup>11</sup> FLA. CONST. art. VII, s. 6.

<sup>12</sup> FLA. CONST. art. X, s. 4.

<sup>13</sup> *Id.* at (c).

<sup>14</sup> FLA. CONST. art VII, s. 6(a).

<sup>15</sup> *Id.* The percent change in the Consumer Price Index for All Urban Consumers, U.S. City Average, all items 1967=100 is used to adjust the exemption, if such percent change is positive. *Id.* For the 2025 tax year, the exemption amount is \$25,722. See Volusia County Property Appraiser, Homestead Exemption, <https://vcpa.vcgov.org/exemption/homestead> (last visited January 7, 2026).

<sup>16</sup> See also Florida Administrative Code Rule 12D-7.013(5): “Property used as a residence and also used by the owner as a place of business does not lose its homestead character. The two uses should be separated with that portion used as a residence being granted the exemption and the remainder being taxed.”

*Abandonment of Homestead Property*

The homestead property tax exemption may be lost by a property owner that abandons homestead property. Failure to maintain a homestead property as a permanent residence may constitute abandonment under certain circumstances.<sup>17</sup> Section 196.061(1), F.S., describes when renting a homestead property constitutes abandonment:

“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. However, such abandonment of the 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.”

**Density Bonus Incentives for Land Donation**

A common tool in boosting affordable housing supply is the use of density bonuses for affordable housing. Typically, a density bonus allows developers to exceed a project’s zoning limitations, such as height or density restrictions, in exchange for including a certain number of affordable units in their development. As an affordable housing incentive, a jurisdiction may increase the maximum units allowable if a builder develops affordable housing units in exchange. The presence of bonus units will allow a developer to sell more homes or rent more apartments and thus help meet various financial feasibility criteria.<sup>18</sup>

Section 420.615, F.S., expressly authorizes local governments to provide density bonus incentives to landowners who voluntarily donate fee simple interest in real property to the local government for the purpose of assisting the local government in providing affordable housing.<sup>19</sup> The density bonus may be applied to any land within the local government’s jurisdiction provided that residential use is an allowable use on the receiving land.<sup>20</sup> The local government may transfer all or a portion of the donated land to a nonprofit housing organization, such as a community land trust, housing authority, or community redevelopment agency, to be used for the production and preservation of permanently affordable housing. The donated land must be subject to deed restrictions to ensure that the property will be used for affordable housing.<sup>21</sup>

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<sup>17</sup> See ss. 196.031 and 193.155, F.S.

<sup>18</sup> Florida Housing Coalition, *Affordable Housing Incentive Strategies: A Guidebook for Affordable Housing Advisory Committee Members and Local Government Staff*, 2021, p. 49, available at: <https://www.flhousing.org/wp-content/uploads/2021/08/8-4-21-AHAC-Guide-UPDATE.pdf> (last visited January 7, 2026).

<sup>19</sup> For purposes of this section, the terms “affordable,” “extremely-low-income persons,” “low-income persons,” “moderate-income persons,” and “very-low-income persons” have the same meaning as in s. 420.0004, F.S.

<sup>20</sup> Section 420.615(3), F.S.

<sup>21</sup> Section 420.615(6), F.S.

### III. Effect of Proposed Changes:

#### Accessory Dwelling Units

**Section 1** amends s. 163.31771, F.S., to require counties and municipalities to adopt an ordinance by December 1, 2026, to allow ADUs without requiring a public hearing; a variance, conditional use permit, or special exception; or other discretionary action other than a determination that a site plan conforms with applicable zoning regulations, in any area zoned for single-family residential use. Such ordinance applies prospectively to ADUs permitted or constructed after adoption of the ordinance. Local governments may regulate the construction, permitting, and use of ADUs, except that local governments may not:

- Prohibit the owner of an ADU from offering the ADU for rent, except for terms of less than 1 month, notwithstanding s. 509.032(7)(b).<sup>22</sup>
- Require an ADU owner to reside in the primary dwelling unit.<sup>23</sup>
- Increase parking requirements on any parcel that can accommodate an additional motor vehicle on a driveway without impeding access to the primary dwelling unit.
- Require replacement parking if a garage, carport, or covered parking structure is converted to create an accessory dwelling unit.
- Impose discretionary review or hearing standards, such as requiring a conditional use approval or special exception to construct an accessory dwelling unit, or other review standards that do not apply generally to other housing in the same district or zone.

Local governments otherwise required by state law to limit the number of new residential dwellings approved in their jurisdictions are excluded from the requirement to enact such an ordinance, but may do so.

The section reaffirms current law by stating that the owner of a property with an ADU may not be denied a homestead exemption for those portions of property on which the owner maintains a permanent residence solely on the basis of the property containing an ADU. However, if the ADU is rented to another person, the ADU must be assessed separately from the homestead property and taxed according to its use.

The section removes the requirement for property owners seeking to construct an ADU to attest that the unit will be rented at an affordable rate to a low-income person or persons. However, the bill maintains the provision allowing affordable ADUs to apply toward satisfying affordable housing goals in the local government's comprehensive plan.

**Section 2** amends s. 420.615, F.S., to expand the express authorization for local governments to grant density bonuses to landowners that donate land to the local government for the purpose of providing affordable housing, to specify that affordable housing includes housing for military families receiving the basic allowance for housing.

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<sup>22</sup> This section reads "A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011." The effect of the bill is to permit local governments to forbid short term rentals in ADUs.

<sup>23</sup> The bill defines "primary dwelling unit" as the existing or proposed single-family dwelling on the property where a proposed accessory dwelling unit would be located.

**Section 3** directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate the efficacy of using mezzanine finance,<sup>24</sup> or second position short-term debt, to stimulate the construction of owner-occupied affordable housing. OPPAGA must also evaluate the potential of tiny homes to meet affordable housing needs in this state. OPPAGA must consult with the FHFC and the Shimberg Center for Housing Studies at the University of Florida and submit a report of its finding to the Legislature by December 31, 2027. The report must include recommendations for the structuring of a model mezzanine finance program.

**Section 4** provides that the bill takes effect on July 1, 2026.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a) of the Florida Constitution provides, in part, that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. The bill may require counties and municipalities to expend funds associated with the requirement to enact an ordinance authorizing the use of ADUs. However, the mandate requirement does not apply to laws having an insignificant impact,<sup>25</sup> which for Fiscal Year 2026-2027 is forecast at approximately \$2.4 million.<sup>26</sup> The aggregate cost for local governments to implement this provision is likely insignificant.

However, if the bill does qualify as a mandate, in order to be binding upon cities and counties, the bill must contain a finding of important state interest and be approved by a two-thirds vote of the membership of each house.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

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<sup>24</sup> A mezzanine loan is a debt-equity instrument that sits in a middle, or “mezzanine” position in the capital stack: below the mortgage, but above the equity. Because it is subordinate to direct loans and other types of senior debts, it’s paid after these other debts in the event of insolvency. Mezzanine loans are associated with higher risk because they are typically unsecured, or only have a junior lien on assets as collateral, and as such can command higher interest rates than traditional loans. However, mezzanine loans may provide more flexibility than direct loans, including flexible repayment terms, where the lender may agree to interest-only payments for initial periods. See Center for Public Enterprise. *Smoothing the Housing Investment Cycle. Part I.* July 2024. Available at: <https://publicenterprise.org/wp-content/uploads/Smoothing-the-Housing-Investment-Cycle-Part-1.pdf> (last visited January 7, 2026).

<sup>25</sup> FLA. CONST. art. VII, s. 18(d).

<sup>26</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See FLA. SENATE COMM. ON CMTY. AFFAIRS, Interim Report 2012-115: Insignificant Impact (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited January 7, 2026).

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Upon enactment of local ADU ordinances across the state, individuals may benefit from greater access to affordable rentals and single-family property owners may benefit from the resulting ADU rental income. Additionally, there may be opportunities to increase the supply of housing that is affordable for military families due to density bonus incentives.

**C. Government Sector Impact:**

Counties and municipalities will likely incur administrative expenses associated with the development and noticing of the ADU ordinance as required in section 1 of the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 163.31771 and 420.615 of the Florida Statutes.

This bill creates an undesignated section of law.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Rules Committee on January 27, 2026:**

The committee substitute excludes local governments otherwise bound by state law to limit the number of new dwelling units, such as under hurricane evacuation time requirements, from the requirement to adopt an accessory dwelling unit, and removes the definition of "by right," instead incorporating its meaning into the substantive text.

**CS by Appropriations Committee on Transportation, Tourism, and Economic Development on January 14, 2026:**

The committee substitute removes provisions related to reusable tenant screening reports, defines the term “by right,” and requires local governments to adopt an ordinance to allow accessory dwelling units by right in certain areas. The ordinance would apply prospectively and may regulate specified actions.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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