

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.)

Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 934

INTRODUCER: Community Affairs Committee and Senator Rodriguez

SUBJECT: Areas of Critical State Concern

DATE: February 24, 2026 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Shuler</u>	<u>Fleming</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 934 exempts from payment or performance bond requirements, a person entering into a construction contract for work done on property in an area of critical state concern that is subject to a long-term ground lease with Habitat for Humanity International, Inc. or its affiliates, provided that the leasehold interest is subject to any claims by claimants who qualify as lienors.

The bill extends funding from the Florida Forever Trust Fund for land acquisition within the Florida Keys Area of Critical State Concern to fiscal year 2035-2036.

The bill has an effective date of July 1, 2026.

II. Present Situation:

Areas of Critical State Concern (ACSC)

The Administration Commission¹ may designate an ACSC for the following areas:

- An area that contains or has a significant impact on environmental or natural resources of regional or statewide importance, where uncontrolled private or public development would cause substantial deterioration of the area's resources.² This includes state or federal parks,

¹ The Administration Commission consists of the Governor and the Cabinet. The commission acts on simple majority. Section 380.031(1), F.S.

² Section 380.05(2)(a), F.S.

forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas.³

- An area that contains or has a significant impact on historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, where private or public development would cause substantial deterioration or complete loss of the area's resources, sites, or districts.⁴
- An area that has a significant impact on, or is significantly affected by, an existing or proposed major public facility or other area of major public investment, including highways, ports, airports, energy facilities, and water management projects.⁵

The Florida Department of Commerce, which is the state land planning agency,⁶ may recommend an area for designation as an area of critical state concern.⁷ In its recommendations, the department must include:⁸

- Recommendations for the purchase of land within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Program;
- Any report or recommendation of a resource planning and management committee;⁹
- The dangers that would result from uncontrolled or inadequate development of the area and the advantages of developing the area in a coordinated manner;
- A detailed boundary description of the proposed area;
- Specific principles for guiding development within the area;¹⁰
- An inventory of lands owned by the federal, state, and local governments within the proposed area; and
- A list of the state agencies with programs that affect the purpose of the designation.

Following the designation of the ACSC, any local government that is wholly or partially located within the area must conform its previously adopted comprehensive plan to the principles for guiding development of the area of critical state concern.¹¹

³ *Id.*

⁴ Section 380.05(2)(b), F.S.

⁵ Section 380.05(2)(c), F.S.

⁶ Section 380.031(18), F.S.

⁷ Section 380.05, F.S.

⁸ Section 380.05(1)(a), F.S.

⁹ Prior to recommending the designation of an area of critical state concern, the Governor, acting as chief planning officer of the state, must appoint a resource planning and management committee for the area under study by the Florida Department of Commerce (DOC). The committee must organize a voluntary, cooperative resource planning and management program to resolve any problems that might endanger the area's resources and facilities. Section 380.045(1), F.S.

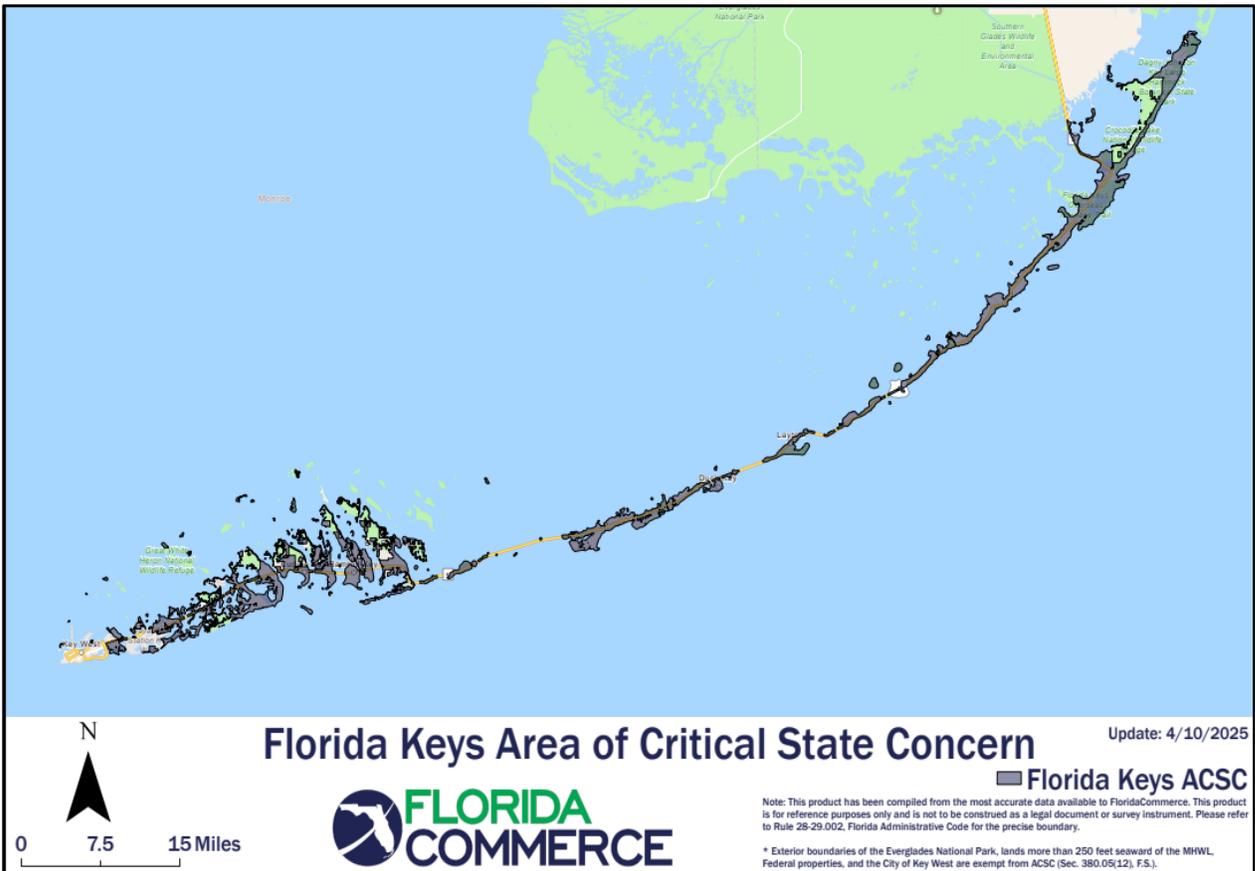
¹⁰ Regarding the principles for guiding development, DOC must recommend actions which state and regional agencies and local governments must accomplish to implement these principles. These actions may include, but are not limited to, revisions of the local comprehensive plan and adoption of land development regulations, density requirements, and special permitting requirements. Section 380.05(1)(a), F.S.

¹¹ Section 380.05(14), F.S.

There are currently six ACSC designated in Florida: The Big Cypress ACSC, the Green Swamp ACSC, the Florida Keys ACSC, the City of Key West ACSC, the Brevard Barrier Island ACSC, and the Apalachicola Bay ACSC.¹²

Florida Keys ACSC

The Florida Keys ACSC was designated in 1975 and currently includes the municipalities of Islamorada, Marathon, Layton, and Key Colony Beach, as well as unincorporated Monroe County.¹³



State, regional, and local governments in the Florida Keys ACSC are required to coordinate their development plans and conduct program and regulatory activities to be consistent with the principles for guiding development.¹⁴ The principles for guiding development include managing

¹² DOC, *Areas of Critical State Concern Program*, <https://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited Feb. 9, 2026); see sections 380.055, 380.0551, 380.0552, 380.0553, and 380.0555, F.S.

¹³ DOC, *Florida Keys Area of Critical State Concern Annual Report: Fiscal Year 2023-2024*, page 3 of Tab 1, available at https://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/2015-cmty-plan-acsc/2024-florida-keys-annual-report.pdf?sfvrsn=75c93ab0_1 (last visited Feb. 9, 2026). In 1984, the City of Key West was removed from the Florida Keys Area of Critical State Concern and was designated a separate area of critical state concern. *Id.* For the map on this page, see DOC, *Florida Keys Area of Critical State Concern*, (2025), available at https://www.floridajobs.org/docs/default-source/community-planning-development-and-services/areas-of-critical-state-concern-program/maps/floridakeysmap.pdf?sfvrsn=f9f639b0_1 (last visited Feb. 9, 2026).

¹⁴ Section 380.0552(7), F.S.

and limiting the adverse impacts of development, and protecting the environmental resources, historical heritage, and water quality of the Florida Keys to maintain its status as a unique Florida resource.¹⁵

A land development regulation or element of a local comprehensive plan in the Florida Keys ACSC may be enacted, amended, or rescinded by a local government, but such actions must be approved by the Florida Department of Commerce.¹⁶ Amendments to local comprehensive plans must be reviewed for compliance with the principles for guiding development.¹⁷

Construction Liens

Florida law seeks to ensure that people working on construction projects are paid for their work. Any person who provides services, labor, or materials for improving, repairing, or maintaining real property (except public property) may place a construction lien¹⁸ on the property, provided the person complies with statutory procedures.¹⁹ A lienor is a contractor; subcontractor; sub-subcontractor, laborer, or materialman who furnishes materials under contract; or a professional lienor.²⁰

A construction lien extends to the right, title, and interest of the person who contracts for the improvement to the extent that such right, title, and interest exists at the improvement's commencement or is acquired in the real property.²¹ However, when a lessee makes an improvement under an agreement between the lessee and his or her lessor, the lien also extends to the lessor's interest unless:²²

- The lease, or a short form or a memorandum of the lease, is recorded in the official records of the county where the property is located before the recording of a notice of commencement for improvements to the property and the lease's terms expressly prohibit such liability; or
- The lease's terms expressly prohibit such liability, and a notice advising that leases for the rental of premises on a property prohibit such liability has been recorded in the official records of the county in which the property is located before the recording of a notice of commencement for improvements to the premises and the notice includes specified information.²³

If a lease expressly provides that the lessor's interest will not be subject to the construction liens relating to improvements made by the lessee, the lessee must notify the contractor making any such improvements of the lease provision, and the knowing and willful failure of the lessee to provide such notice renders the contract voidable at the contractor's option.²⁴

¹⁵ *Id.* For a full list of required considerations, see section 380.0552(7)(a)-(n), F.S.

¹⁶ Section 380.0552(9)(a), F.S.

¹⁷ *Id.*

¹⁸ A lien is a claim against property that evidences a debt, obligation, or duty. *See* 34 FLA. JUR. 2D, *Liens* s. 1 (describing a lien as a charge on property for the payment or discharge of a debt or duty which may be created only by a contract of the parties or by operation of law).

¹⁹ Chapter 713, F.S.

²⁰ Section 713.01(19), (21), F.S.

²¹ Section 713.10(1), F.S.

²² *Id.*

²³ Section 713.10(2)(b), F.S.

²⁴ Section 713.10(2)(a), F.S.

Payment and Performance Bonds

A contractor who contracts with the state or any local government or other public authority or private entity for the construction of, or repairs to, a public building or public work must execute and record²⁵ a payment and performance bond with a surety insurer authorized to do business in Florida as a surety, if the contract is above a certain threshold.²⁶ A payment bond is a type of surety that generally guarantees that all subcontractors, laborers, and material suppliers will be promptly paid for their labor, services, and materials contributed to a construction project.²⁷

The bond forms a three-part contract between the owner, the contractor, and the surety insurer where the bond substitutes for the property as the security for payment in lieu of the typical right to claim a lien.²⁸ The payment bond must be furnished in at least the amount of the original contract price before beginning the construction project, and a certified copy of the recorded bond must be provided to the public entity before commencing work.²⁹

Habitat for Humanity

Habitat for Humanity is a nonprofit organization working across the United States and over 70 countries to increase access to housing through constructing, renovating, and repairing homes; innovating new building and financing methods; and advocating for policies to enhance housing construction and access.³⁰ Families in need of decent, affordable housing apply for homeownership with their local Habitat for Humanity affiliate.³¹ Habitat for Humanity affiliates are independent local nonprofit organizations that coordinate all aspects of Habitat home building in their local areas.³² Three affiliates operate in the Florida Keys: Habitat for Humanity of the Upper Keys, Habitat for Humanity of the Middle Keys, and Habitat for Humanity of Key West and Lower Florida Keys.³³

To keep properties affordable, Habitat for Humanity structures its home ownership model by first leasing land from a local government or community land trust subject to a ground lease of

²⁵ The payment and performance bond must be executed and recorded before the work is begun, and the recording must be in the public records of the county where the improvement is located. Section 255.05(1), F.S.

²⁶ Section 255.05(1), F.S. No bond is required for work done for the state where the contract is \$100,000 or less. A county, city, political subdivision, or public authority may choose to exempt contracts for \$200,000 or less. S. 255.05(1)(d), F.S.

²⁷ See generally sections 255.05, and 713.23, F.S. (“The bond shall be conditioned upon the contractor’s performance of the construction work in the time and manner prescribed in the contract and promptly making payments to all persons defined in s. 713.01 who furnish labor, services, or materials for the prosecution of the work provided for in the contract.” S. 255.05(1)(c), F.S.

²⁸ See Daniel R. Vega, “Here Comes the Money”: A Subcontractor’s and Material Supplier’s Guide to Perfecting Construction Lien and Bond Rights Under Florida Law, 76 Fla. Bar. J. 9 (Oct 2002), available at <https://www.floridabar.org/the-florida-bar-journal/here-comes-the-money-a-subcontractors-and-material-suppliers-guide-to-perfecting-construction-lien-and-bond-rights-under-florida-law/> (last visited Feb. 9, 2026).

²⁹ Section 255.05(1), F.S. For a contract in excess of \$250 million, if the state, county, municipality, political subdivision, or other public entity finds that a bond in the amount of the contract price is not reasonably available, the public owner shall set the amount of the bond at the largest amount reasonably available, but not less than \$250 million. S. 255.05(1)(g), F.S.

³⁰ Habitat for Humanity, *Frequently asked questions*, <https://www.habitat.org/about/faq> (last accessed Feb. 9, 2026).

³¹ *Id.*

³² *Id.*

³³ Habitat for Humanity, <https://www.habitat.org/local/affiliate-by-state?state=FL> (last accessed Feb. 9, 2026).

99 years.³⁴ An eligible family will then purchase the home from Habitat from Humanity without purchasing the land.³⁵ The 99-year ground lease places limitations on resale, such as setting income limits for future purchasers and providing a formula to keep the resale price affordable.³⁶

Florida Forever Trust Fund

The Florida Forever Program is the state's main conservation and recreation lands acquisition program.³⁷ The Florida Forever Act prescribes the uses and distribution of funds to the Florida Forever Program.³⁸

Thirty-five percent of Florida Forever funds must be distributed to the Florida Department of Environmental Protection for the acquisition of lands and capital project expenditures described in the Florida Forever Act.³⁹ Of this distribution:

- Increased priority must be given to acquisition that would achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge.
- Between three and ten percent must be spent on capital project expenditures that meet land management planning activities necessary for public access.⁴⁰

Beginning in fiscal year 2017-2018 and continuing through fiscal year 2026-2027, at least \$5 million must be spent on land acquisition within the Florida Keys Area of Critical State Concern.⁴¹

III. Effect of Proposed Changes:

Section 1 amends s. 255.05, F.S., to exempt a person entering into a contract with the state, a county, city, or political subdivision for construction of or repairs to a public building or public work or repairs from being required to execute a payment and performance bond, if the person meets the following conditions:

- The work is done on property located within an ACSC subject to a long-term ground lease of 99 years or more with Habitat for Humanity International, Inc., or any of its affiliates, at the discretion of the official or board that owns the underlying property in fee simple, and
- The leasehold interest created by the 99-year ground lease is subject to any claims by claimants who qualify as lienors.

³⁴ Natalia Jaramillo, *Facing land shortage in Osceola County, nonprofits struggle to build affordable housing*, ORLANDO SENTINEL, Mar. 20, 2023, available at <https://www.orlandosentinel.com/2023/03/20/facing-land-shortage-in-osceola-county-nonprofits-struggle-to-build-affordable-housing/> (last visited Feb. 9, 2026).

³⁵ Pensacola Habitat for Humanity, *Northwest Florida Community Land Trust*, <https://pensacolahabitat.org/nfclt> (last visited Feb. 9, 2026).

³⁶ *Id.* See also Florida Community Land Trust Institute, *CLT Primer*, (2018), available at <https://flhousing.org/wp-content/uploads/2018/09/CLT-Primer-FINAL-2018-02-Web-PJH-update.pdf> (last visited Feb. 9, 2026).

³⁷ The Florida Department of Environmental Protection, *Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/florida-forever> (last visited Feb. 9, 2026).

³⁸ Section 259.105, F.S.

³⁹ Section 259.105(3)(b), F.S.

⁴⁰ *Id.*

⁴¹ *Id.*

The underlying real property owned by the state or any county, city, or political subdivision thereof, or by any other public authority, may not be subject to any lien rights created under chapter 713, F.S., relating to liens, generally.

Section 2 amends s. 259.105, F.S., to extend the date through which at least \$5 million of the funds allocated from the Florida Forever Act to the Florida Department of Environmental Protection for the acquisition of lands and capital project expenditures must be spent on land acquisition within the Florida Keys ACSC. The funding requirement currently extends through the 2026-2027 fiscal year and the bill extends it through the 2035-2037 fiscal year.

Section 3 provides an effective date of July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require counties and municipalities to expend funds or further limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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:

By providing an exemption from payment and performance bonds for those performing construction work on property subject to long-term ground leases with Habitat for Humanity International, Inc., or any of its affiliates in the Florida Keys ACSC, the bill may have an indeterminate positive impact on those involved with construction in that area.

C. **Government Sector Impact:**

This bill has no net impact on state funds; however, the extension of dedicated funding from Florida Forever specifically for Florida Keys ACSC projects would impact the availability of funds for other Florida Forever land acquisition projects.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 255.05 and 259.105 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on February 10, 2026:

The committee substitute removes the section of the bill amending s. 196.1978, F.S., which would have revised eligibility criteria for the Live Local property tax exemption for affordable housing properties in the Florida Keys Area of Critical State Concern.

- B. **Amendments:**

None.