

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 Committee on Community Affairs

BILL: SB 934

INTRODUCER: Senator Rodriguez

SUBJECT: Areas of Critical State Concern

DATE: February 9, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Shuler	Fleming	CA	Pre-meeting
2. _____	_____	FT	_____
3. _____	_____	RC	_____

I. Summary:

SB 934 revises eligibility criteria for the “Live Local” property tax exemption for multifamily affordable housing properties within the Florida Keys Area of Critical State Concern to reduce the minimum number of units which must be set aside and no longer require they be newly constructed.

The bill 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.

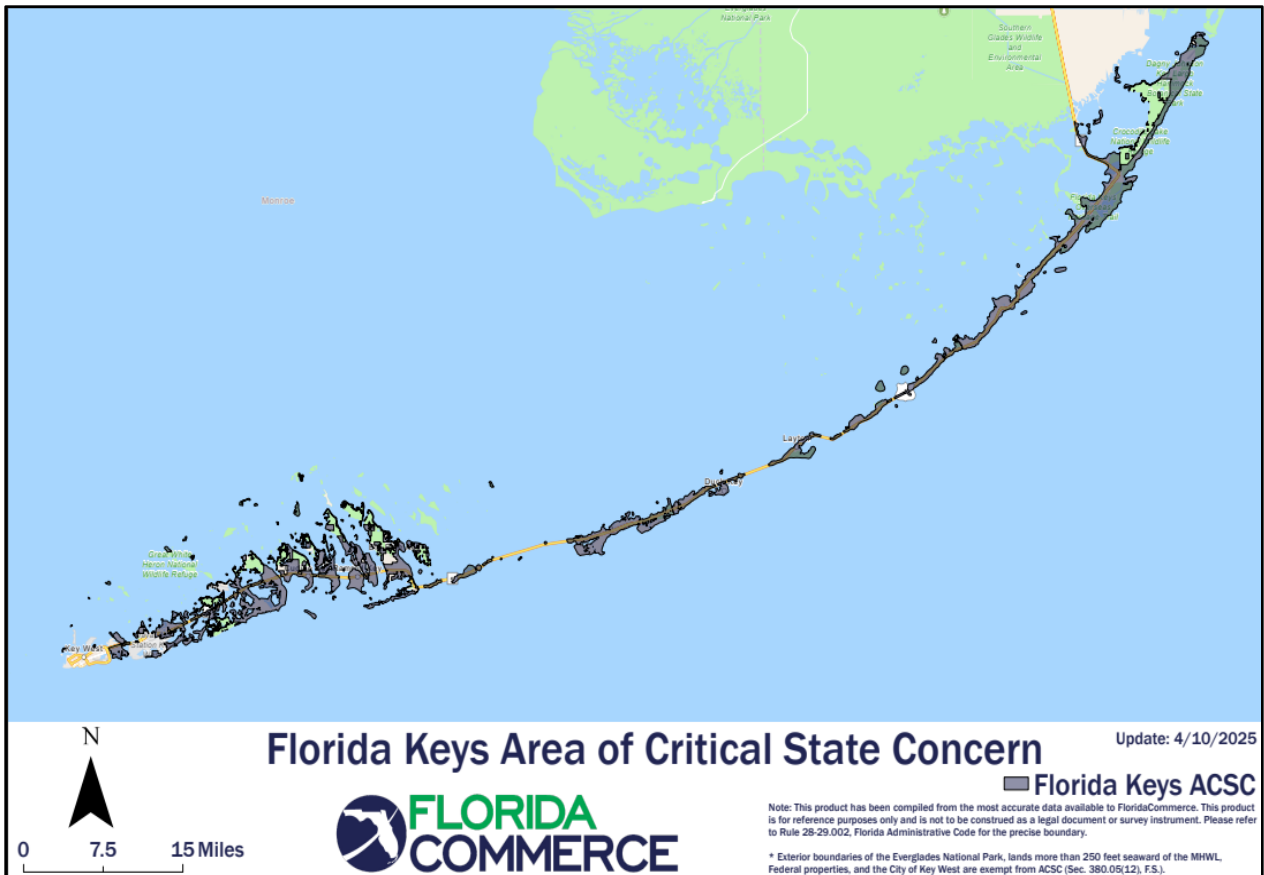
¹⁰ Regarding the principles for guiding development, DOC must recommend actions which state and regional agencies and local governments must accomplish to implement these principles. These actions may include, but are not limited to, revisions of the local comprehensive plan and adoption of land development 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-cmtty-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

Affordable Housing

Housing is considered affordable when it costs less than 30 percent of a family's gross income.¹⁸ A family paying more than 30 percent of its income for housing is considered "cost burdened," while those paying more than 50 percent are considered "severely cost burdened."¹⁹ What makes housing "affordable" is a decrease in monthly rent so that income eligible households can pay less for the housing than it would otherwise cost at "market rate."²⁰

Resident eligibility for Florida's state and federally funded housing programs is typically governed by area median income (AMI) levels. These levels are published annually by the U.S. Department of Housing and Urban Development for every county and metropolitan area.²¹ Florida Statutes categorizes the levels of household income as follows:

- Extremely low income – households at or below 30% AMI;²²
- Very low income – households at or below 50% AMI;²³
- Low income – households at or below 80% AMI;²⁴ and
- Moderate income – households at or below 120% AMI.²⁵

"Live Local" Property Tax Exemption

The ad valorem tax²⁶ or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts based on the taxable value of property as of January 1 of each year.²⁷ The Florida Constitution allows the Legislature to exempt from ad valorem taxation

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 National Low Income Housing Coalition, *About the Gap Report*, <https://nlihc.org/gap/about> (last visited Feb. 9, 2026).

¹⁹ *Id.*

²⁰ The Florida Housing Coalition, *Affordable Housing in Florida*, 3, available at: <https://flhousing.org/wp-content/uploads/2022/07/Affordable-Housing-in-Florida.pdf> (last visited Feb. 9, 2026).

²¹ See U.S. Department of Housing and Urban Development, *Income Limits*, <https://www.huduser.gov/portal/datasets/il.html> (last visited Feb. 9, 2026).

²² Section 420.0004(9), F.S.

²³ Section 420.0004(17), F.S.

²⁴ Section 420.0004(11), F.S.

²⁵ Section 420.0004(12), F.S.

²⁶ For an in-depth review of ad valorem taxation and the "Live Local" tax exemption discussed herein, see Florida Senate Committee on Appropriations, *Bill Analysis and Fiscal Impact Statement, CS/SB 102 (2023)* pages 30-34, Feb. 24, 2023, available at <https://flsenate.gov/Session/Bill/2023/102/Analyses/2023s00102.ap.PDF> (last visited Feb. 9, 2026).

²⁷ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal

portions of property that are used predominantly for educational, literary, scientific, religious or charitable purposes.²⁸ The Legislature has implemented these exemptions and set forth criteria to determine whether property is entitled to such an exemption.²⁹

The Live Local Act, which became law in 2023, established a new “charitable use” ad valorem tax exemption for owners of newly constructed multifamily rental developments who use a portion of the development to provide affordable housing.³⁰ Eligible property includes units in a newly constructed multifamily development containing a minimum number of units dedicated to housing natural persons or families below certain income thresholds.³¹ “Newly constructed” is defined as substantially completed within 5 years before first submitting a request for certification for the exemption.³² The units must be occupied by such individuals or families at either the 80 or 120 percent AMI threshold.³³ Rent for such units may not exceed the lesser of U.S. Department of Housing and Urban Development income and rent limits or 90 percent of the fair market value of rent as determined by a rental market study.³⁴

In 2024, the Legislature revised this exemption for developments located in the Florida Keys ACSC to require a minimum of 10 units (rather than the minimum of 70 units for projects in other parts of the state) be set aside for income-limited persons and families in acknowledgement of the stricter land development regulations for that area.³⁵

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 lien³⁶ on the property, provided the person complies with statutory procedures.³⁷ A lienor is a contractor; subcontractor; sub-subcontractor, laborer, or materialman who furnishes materials under contract; or a professional lienor.³⁸

property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

²⁸ Art. VII, s. 3(a), FLA. CONST. 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, e.g., Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *S. Bell Tel. & Tel. Co. v. Dade Cnty.*, 275 So. 2d 4 (Fla. 1973).

²⁹ Section 196.196, F.S.

³⁰ Ch. 2023-17, s. 8, Laws of Fla., codified as s. 196.1978(3), F.S. (2025).

³¹ Section 196.1978(3)(b), F.S.

³² Section 196.1978(3)(a), F.S.

³³ Section 196.1978(3)(b)1., F.S.

³⁴ Section 196.1978(3)(b)3., F.S.

³⁵ Chapters 2024-158, and 2024-188, Laws of Fla.

³⁶ 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).

³⁷ Chapter 713, F.S.

³⁸ Section 713.01(19), (21), F.S.

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.³⁹ 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:⁴⁰

- 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.⁴¹

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.⁴²

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 record⁴³ 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.⁴⁴ 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.⁴⁵

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.⁴⁶ The payment bond must be furnished in at least the amount of the original

³⁹ Section 713.10(1), F.S.

⁴⁰ *Id.*

⁴¹ Section 713.10(2)(b), F.S.

⁴² Section 713.10(2)(a), F.S.

⁴³ 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.

⁴⁴ 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.

⁴⁵ 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.

⁴⁶ 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).

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.⁴⁷

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.⁴⁸ Families in need of decent, affordable housing apply for homeownership with their local Habitat for Humanity affiliate.⁴⁹ Habitat for Humanity affiliates are independent local nonprofit organizations that coordinate all aspects of Habitat home building in their local areas.⁵⁰ 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.⁵¹

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 99 years.⁵² An eligible family will then purchase the home from Habitat from Humanity without purchasing the land.⁵³ 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.⁵⁴

Florida Forever Trust Fund

The Florida Forever Program is the state's main conservation and recreation lands acquisition program.⁵⁵ The Florida Forever Act prescribes the uses and distribution of funds to the Florida Forever Program.⁵⁶

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.⁵⁷ Of this distribution:

⁴⁷ 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.

⁴⁸ Habitat for Humanity, *Frequently asked questions*, <https://www.habitat.org/about/faq> (last accessed Feb. 9, 2026).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Habitat for Humanity, <https://www.habitat.org/local/affiliate-by-state?state=FL> (last accessed Feb. 9, 2026).

⁵² 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).

⁵³ Pensacola Habitat for Humanity, *Northwest Florida Community Land Trust*, <https://pensacolahabitat.org/nfclt> (last visited Feb. 9, 2026).

⁵⁴ *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).

⁵⁵ The Florida Department of Environmental Protection, *Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/florida-forever> (last visited Feb. 9, 2026).

⁵⁶ Section 259.105, F.S.

⁵⁷ Section 259.105(3)(b), F.S.

- 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 3 and 10 percent must be spent on capital project expenditures that meet land management planning activities necessary for public access.⁵⁸

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.⁵⁹

III. Effect of Proposed Changes:

Section 1 amends s. 196.1978, F.S., to revise eligibility criteria for property in a multifamily project within the Florida Keys ACSC to receive the “Live Local” ad valorem tax exemption. Current law requires, for property in the Florida Keys ACSC, that the property to be a newly constructed multifamily project which contains more than ten units dedicated to housing natural persons or families meeting certain income limitations. The bill removes the requirement that the property within the Florida Keys ACSC be within a newly constructed multifamily project and lowers the number of units required from “more than ten” to “one or more.”

Section 2 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.

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 3 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 4 provides an effective date of July 1, 2026.

⁵⁸ *Id.*

⁵⁹ *Id.*

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(b) of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. The mandate requirement does not apply to laws having an insignificant impact,⁶⁰ which for Fiscal Year 2026-2027⁶¹ is forecast at approximately \$2.4 million or less.

The Revenue Estimating Conference has not adopted an estimate for SB 934. If the impact exceeds the threshold for insignificant impact, the mandate requirements may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

Because of the change in eligibility requirements for the Live Local property tax exemption for properties in the Florida Keys ACSC, more owners of qualifying affordable housing units may enjoy savings on ad valorem taxes.

⁶⁰ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See FLA. SENATE COMM. ON COMTY. AFFAIRS, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 9, 2026).

⁶¹ Based on the Demographic Estimating Conference's estimated population adopted on June 30, 2025, <https://edr.state.fl.us/Content/conferences/population/archives/250630demographic.pdf> (last visited Feb. 9, 2026).

By providing an exemption from payment and performance bonds for 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:

The bill may reduce local government property tax revenues due to the change in Live Local property tax exemption eligibility requirements for properties in the Florida Keys ACSC.

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:

Because the bill has an effective date of July 1, 2026, it should clarify to which tax year the amendments to the eligibility for a tax exemption under s. 196.1978, F.S. apply.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 196.1978, 255.05, and 259.105 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.