

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 Agriculture

BILL: SB 962

INTRODUCER: Senator Bradley

SUBJECT: Affordable Housing

DATE: February 2, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Hackett</u>	<u>Fleming</u>	<u>CA</u>	Favorable
2. <u>Stokes-Ramos</u>	<u>Becker</u>	<u>AG</u>	Favorable
3. _____	_____	<u>RC</u>	_____

I. Summary:

SB 962 provides that for the purposes of the Live Local Act, passed during the 2023 Regular Session, farms or farm operations, including the packaging and sale of those products raised on the premises, are excluded from the definitions of commercial, industrial, or mixed use zoning which would require the local government to approve certain affordable housing developments.

The bill takes effect July 1, 2026.

II. Present Situation:

Zoning and Land Use Preemption for Affordable Developments

The Growth Management Act requires every city and county to create and implement a comprehensive plan to guide future development.¹ All development, both public and private, and all development orders² approved by local governments must be consistent with the local government's comprehensive plan unless otherwise provided by law.³ The Future Land Use Element in a comprehensive plan establishes a range of allowable uses and densities and

¹ Section 163.3167(2), F.S.

² "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.

³ Section 163.3194(3), F.S.

intensities over large areas, and the specific use and intensities for specific parcels⁴ within that range are decided by a more detailed, implementing zoning map.⁵

The Live Local Act⁶ preempts certain county and municipal zoning and land use decisions to encourage development of affordable multifamily rental housing in targeted land use areas. Specifically, the act requires counties and municipalities to allow a multifamily or mixed-use residential⁷ rental development in any area zoned for commercial, industrial, or mixed-use if the development meets certain affordability requirements.⁸ To qualify, the proposed development must reserve 40 percent of the units for residents with incomes up to 120% of the area median income, for a period of at least 30 years.

Commercial, Industrial, and Mixed Use⁹

For the purposes of the Live Local Act, “commercial use” means activities associated with the sale, rental, or distribution of products or the performance of services related thereto. It includes, but is not limited to:

- Retail sales; wholesale sales; rentals of equipment, goods, or products;
- Offices; restaurants;
- Food service vendors; sports arenas; theaters; and tourist attractions; and
- Other for-profit business activities

A parcel that is zoned to permit these uses by right (without a variance or waiver) is considered commercial use for this statute, regardless of its local land development category or title.

Excluded from commercial use are:

- Home-based businesses and cottage food operations on residential property;
- Certain public lodging establishments;
- Accessory, ancillary, incidental, or temporary uses; and
- Recreational uses (e.g., golf courses, tennis courts, swimming pools, clubhouses) when located within an area designated for residential use.

For the purposes of the Live Local Act, “industrial use” means activities associated with the manufacture, assembly, processing, or storage of products or the performance of related services. It includes, but is not limited to:

- Automobile manufacturing or repair; boat manufacturing or repair;
- Junk yards; meat packing facilities; citrus or produce processing and packing;
- Electrical generating plants; water treatment plants; sewage treatment plants; and

⁴ When local governments make changes to their zoning regulations or comprehensive plans, some structures may no longer be in compliance with the newly approved zoning and may be deemed a “nonconforming use.” A nonconforming use or structure is one in which the use or structure was legally permitted prior to a change in the law, and the change in law would no longer permit the re-establishment of such structure or use.

⁵ 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).

⁶ The “Live Local Act,” Ch. 2023-17, Laws of Fla., made various changes to affordable housing related programs and policies at the state and local levels, including zoning and land use preemptions favoring affordable housing, funding for state affordable housing programs, and tax provisions intended to incentivize affordable housing development.

⁷ For mixed-use residential, at least 65 percent of the total square footage must be used for residential purposes.

⁸ See ss. 125.01055(7) and 166.04151(7), F.S.

⁹ See s. 125.01055(7)(n), F.S.

- Solid waste disposal sites.

A parcel zoned to permit these uses by right is considered industrial use for the statute. The term does not include accessory, ancillary, incidental, or temporary uses, or the same set of recreational uses as above.

For the purposes of the Live Local Act, “mixed use” refers to any use that combines multiple types of approved land uses from at least two of the residential use, commercial use, and industrial use categories.¹⁰ The commercial and industrial exclusions for accessory, ancillary, incidental, temporary, and recreational uses apply to mixed use as well.

III. Effect of Proposed Changes:

The bill amends ss. 125.01055 and 166.04151, F.S., to provide that for the purposes of the Live Local Act, farms or farm operations, or uses associated therewith, to include the packaging and sale of those products raised on the premises, are excluded from the definitions of commercial, industrial, or mixed use.

The bill refers to s. 823.14(3), F.S., which provides that:

- “Farm” means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products; and
- “Farm operation” means all conditions or activities by the owner, lessee, agent, independent contractor, or supplier which occur on a farm in connection with the production of farm, honeybee, or apiculture products or in connection with complementary agritourism activities.

The referenced statute includes examples such as roadside stands, agritourism, and the use of certain farm-related machinery.

With this change, counties and municipalities are not required to authorize multifamily and mixed-use residential uses for an area if the area is also a farm or farm operation or utilized for uses associated therewith.

The bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁰ Section 125.01055(n)3., F.S.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 125.01055 and 166.04151 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.