HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 1239 Affordable Housing
SPONSOR(S): Appropriations Committee; State Affairs Committee; Lopez, V., and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 328

FINAL HOUSE FLOOR ACTION: 112 **Y's** 1 **N's** **GOVERNOR'S ACTION:** Pending

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SUMMARY ANALYSIS

CS/CS/HB 1239 passed the House on February 28, 2024, as CS/CS/SB 328. The bill also includes portions of CS/SB 7074.

In 2023, the Legislature passed the Live Local Act, which preempts certain county and municipal zoning and land use decisions to encourage development of affordable multifamily rental housing in targeted land use areas. Counties and municipalities must allow a multi-family or mixed-use residential rental development in any area zoned for commercial, industrial, or mixed-use if the development meets certain affordability requirements.

The bill amends various provisions of the Live Local Act (act). As it pertains to the act's preemption of certain local zoning and land use regulations to expedite development of affordable housing, the bill:

- Clarifies qualifying affordable units must be rental units and the highest allowed density and height subject to the preemption does not include bonuses, variances, or other special exceptions.
- Modifies the height preemption for developments adjacent to single-family residential uses.
- Limits the ability of local governments to restrict the intensity, as measured in floor area ratio (FAR), of a proposed development beyond the highest amount currently authorized.
- Prohibits qualifying developments located near a military installation and exempts certain airport impacted areas.
- Clarifies the act does not limit a local government's ability to grant a bonus, variance, or other special exception for height, density, or FAR and provides that a proposed development is still eligible for height, density, or intensity bonuses provided by local ordinance if certain conditions are satisfied.
- Requires developments authorized under the act be treated as a conforming use even after expiration of the development's affordability period and after the expiration of the act.
- Modifies parking reduction requirements for qualifying developments.
- Grandfathers in applicants for proposed developments under current law, but allows those applicants to submit a revised application to account for changes made by the bill

As it pertains to the act's ad valorem tax exemptions for affordable housing development, the bill:

- Requires fewer units for developments located in the Florida Keys to be set aside for income-limited persons and families.
- Clarifies that the Florida Housing Finance Corporation's (FHFC) duties are ministerial, while local property appraisers maintain authority to grant tax exemptions, and outlines the method for property appraisers to determine values of tax-exempt units.

The bill also expands the authority of FHFC to preclude certain developers from participating in its programs.

The bill appropriates $100 million in non-recurring funds from the General Revenue Fund to FHFC to administer the Florida Hometown Hero Program. It will have an indeterminate negative impact on local governments.

Subject to the Governor's veto powers, the effective date of this bill is upon becoming a law.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Affordable Housing

Housing is considered affordable when it costs less than 30 percent of a family's gross income.[1] 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 "extremely cost burdened." Severely cost burdened households are more likely to sacrifice other necessities such as healthy food and healthcare to pay for housing, and to experience unstable housing situations such as eviction.

Affordable housing is defined in terms of household income. Resident eligibility for Florida's state and federally-funded housing programs is governed by area median income (AMI) or statewide median family income,[2] published annually by the United States Department of Housing and Urban Development (HUD).[3] The following are standard household income level definitions and their relationship to the 2023 Florida statewide AMI of $85,500 for a family of four (as family size changes, the income range also varies):[4]

- Extremely low income – earning up to 30 percent AMI (at or below $ 24,850).[5]
- Very low income – earning from 30.01 to 50 percent AMI ($24,851 to $41,450).[6]
- Low income – earning from 50.01 to 80 percent AMI ($41,451 to $66,350). [7]
- Moderate income – earning from 80.01 to 120 percent of AMI ($66,351 to $102,600).[8]

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (FHFC) was created in 1997 as a public-private entity to assist in providing a range of affordable housing opportunities for Floridians.[9] FHFC is a corporation held by the state and housed within the Department of Commerce (Commerce). FHFC is a separate budget entity and its operations are not subject to control, supervision, or direction by Commerce.[10]

The goal of FHFC is to increase the supply of safe, affordable housing for individuals and families with very low to moderate incomes by stimulating investment of private capital and encouraging public and private sector housing partnerships. As a financial institution, FHFC administers federal and state resources to finance the development and preservation of affordable rental housing and assist homebuyers with financing and down payment assistance.[11]

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[1] S. 420.0004(3), F.S.
[2] The 2023 Florida SMI for a family of four was $85,500. U.S. Dept. of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas*, available at https://www.huduser.gov/portal/datasets/il.html#year2023 (last visited Jan. 24, 2024).
[3] HUD User, Office of Policy Development and Research, "Income Limits," available at https://www.huduser.gov/portal/datasets/il.html#2023 (last visited Jan. 24, 2024) (SMI and AMI available under the "Access Individual Income Limits Area" dataset).
[4] U.S. Dept. of Housing and Urban Development, *Income Limits*, *Access Individual Income Limits Areas*, available at https://www.huduser.gov/portal/datasets/il.html#2023 (last visited Jan. 24, 2024).
[5] S. 420.0004(9), F.S.
[6] S. 420.0004(17), F.S.
[7] S. 420.0004(11), F.S.
[8] S. 420.0004(12), F.S.
[9] Ch. 97-167, Laws of Fla. From 1980 through 1997, the former Florida Housing Finance Agency, placed within the former Department of Community Affairs, performed similar duties.
[10] S. 420.504(1), F.S.
[11] *See* Fla. Housing Finance Corp., *About Florida Housing*, https://www.floridahousing.org/about-florida-housing (last accessed Jan. 24, 2024).

FHFC may preclude an applicant or an affiliate from participation in any of its programs under certain circumstances if the applicant or affiliate has:

- Made a material misrepresentation or engaged in fraudulent actions in connection with any corporation program.
- Been convicted or found guilty of, or entered a plea of guilty or no contest to, a crime in any jurisdiction which directly relates to the financing, construction, or management of affordable housing or the fraudulent procurement of state or federal funds.
- Been excluded from any federal funding program related to the provision of housing.
- Been excluded from any Florida procurement programs.
- Offered or given consideration, other than the consideration to provide affordable housing, with respect to a local contribution.
- Demonstrated a pattern of noncompliance and a failure to correct any such noncompliance after notice from the corporation in the construction, operation, or management of one or more developments funded through a corporation program.[12]

Land Use for Affordable Housing Development

All development, both public and private, and all development orders[13] approved by a local government must be consistent with the local government's comprehensive plan.[14] The Growth Management Act requires every county and municipality to create and implement a comprehensive plan to guide future development.[15] A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.[16] The future land use element and the housing element are the most pertinent to the bill.

The future land use element designates proposed future general distribution, location, and extent of the uses of land. Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities. The approximate acreage and the general range of density or intensity of use must be provided for each land use category.[17] The specific use and intensities for specific parcels are decided by a more detailed, implementing zoning map.[18]

The housing element sets forth guidelines and strategies for the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, provision of adequate sites for future housing, and distribution of housing for a range of incomes and types.[19]

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[12] S. 420.518(1)(a-f), F.S.
[13] "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.
[14] S. 163.3194(3), F.S
[15] S. 163.3167(2), F.S.
[16] S. 163.3177(6), F.S. The 10 required elements include capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Throughout statutes exist plans and programs that may be added as optional elements.
[17] S. 163.3177(6)(a), F.S.
[18] 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).
[19] S. 163.3177(6)(f), F.S.

A comprehensive plan is implemented through the adoption of land development regulations[20] that are consistent with the plan and that contain specific and detailed provisions necessary to implement the plan.[21] Such regulations must, among other prescriptions, regulate the subdivision of land and the use of land for the land use categories in the land use element of the comprehensive plan.[22] Substantially affected persons have the right to maintain administrative actions that ensure land development regulations implement and are consistent with the comprehensive plan.[23]

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment to receive two public hearings, the first held by the local planning board and subsequently by the governing board.[24] Following the hearings, the local government must transmit the plan to several statutorily identified reviewing agencies, including Commerce, for review.[25] Most plan amendments are placed into the expedited state review process, while plan amendments relating to large-scale developments are placed into the state coordinated review process.[26]

Live Local Act

The Live Local Act, which became law in 2023, preempts certain county and municipal zoning and land use decisions to encourage development of affordable multifamily rental housing in targeted land use areas.[27] Specifically, counties and municipalities must allow a multi-family or mixed-use residential[28] rental development in any area zoned for commercial, industrial, or mixed-use if the development meets certain affordability requirements.[29] To qualify, the proposed development must reserve 40 percent of the units for residents with incomes up to 120 percent AMI, for a period of at least 30 years.

Local governments are prohibited from restricting the density[30] of qualifying developments below the highest allowed density on land within its jurisdiction where residential development is allowed and may not restrict the height below the highest currently allowed height for a commercial or residential development in its jurisdiction within one mile of the proposed development or three stories, whichever is higher.[31]

An application for a development must be administratively approved, and no further action is required from the governing body of the local government if the development satisfies the local government's land development regulations for multifamily in areas zoned for such use and is otherwise consistent

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[20] "Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. 163.3213. See s. 163.3164(26), F.S.
[21] S. 163.3202, F.S.
[22] *Id.*
[23] S. 163.3213, F.S.
[24] Ss. 163.3174(4)(a) and 163.3184, F.S.
[25] S. 163.3184, F.S.
[26] *See* ss. 163.3184 and 380.06, F.S. In the Expedited State Review Process, DEO reviews and approves or amends the proposed comprehensive plan amendment. This process can take 4 to 6 months. The State Coordinated Review Process is a more thorough, complex, multi-phase process. For more information, *see* Florida Department of Economic Opportunity, *Amendments that Must Follow the State Coordinated Review Process; Procedures and Timeframes*, https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/amendments-that-must-follow-the-state-coordinated-review-process-procedures-and-timeframes (last visited Jan. 24, 2024).
[27] Ch. 2023-17, ss. 3, 5, Laws of Fla., codified as ss. 125.01055(7) and 166.04151(7), F.S.
[28] For mixed-use residential, at least 65 percent of the total square footage must be used for residential purposes. Ss. 125.01055(7)(a) and 166.04151(7)(a), F.S.
[29] Ss. 125.01055(7)(a) and 166.04151(7)(a), F.S.
[30] "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre, *see* s. 163.3164(12), F.S. While the act expressly preempted density, it did not address intensity. *See* s. 163.3164(22), F.S. Intensity is often measured in terms of floor area ratio (FAR). FAR is the measurement of a building's floor area in relation to the parcel or lot that the structure is built on. For a general overview of FAR, *see*: Metropolitan Council, Local Planning Handbook, *Calculating Floor Area Ratio*, https://metrocouncil.org/Handbook/Files/Resources/Fact-Sheet/LAND-USE/How-to-Calculate-Floor-Area-Ratio.aspx (last visited Jan. 24, 2024).
[31] Ss. 125.01055(7)(b)-(c) and 166.04151(7)(b)-(c), F.S.

with the jurisdiction's comprehensive plan, with the exception of density, height, and land use requirements.[32]

A local government must consider reducing parking requirements for these developments if they are located within one-half mile of a major transit stop, as the term is defined in the local government's land development code, and the major transit stop is accessible from the development.[33]

These provisions do not apply to recreational and commercial working waterfronts in industrial areas, and only mixed-use residential developments must be authorized under these provisions in certain areas where commercial or industrial capacity is exceptionally limited.[34]

Qualifying developments must comply with all other applicable state and local laws and regulations.[35]

These provisions are effective until October 1, 2033.

<u>Ad Valorem Tax Exemption for Affordable Housing</u>

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.[36] The property appraiser annually determines the "just value"[37] of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[38] Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31 of the following year.

The Florida Constitution prohibits the state from levying ad valorem taxes,[39] and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.[40]

Ad Valorem Tax Exemption for Newly Constructed Affordable Housing

The Live Local Act established a new ad valorem tax exemption for owners of newly constructed multifamily rental developments who use a portion of the development to provide affordable housing.[41] Eligible property includes units in a newly constructed multifamily development containing more than 70 units dedicated to housing natural persons or families below certain income thresholds.[42] However, units subject to an agreement with FHFC are not eligible for the exemption.[43]

"Newly constructed" is defined as an improvement substantially completed within five years before the property owner's first application for the exemption.[44] The units must be occupied by such individuals or families and rent limited so as to provide affordable housing at either the 80 or 120 percent AMI

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[32] Ss. 125.01055(7)(d) and 166.04151(7)(d), F.S.
[33] Ss. 125.01055(7)(e) and 166.04151(7)(e), F.S.
[34] Ss. 125.01055(7)(f) and (h) and 166.04151(7)(f) and (h), F.S.
[35] Ss. 125.01055(7)(g) and 166.04151(7)(g), F.S.
[36] Both real property and tangible personal property are subject to tax. S. 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. S. 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.
[37] 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 Walter v. Shuler,* 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County,* 275 So. 2d 4 (Fla. 1973).
[38] *See* s. 192.001(2) and (16), F.S.
[39] FLA. CONST. art. VII, s. 1(a).
[40] *See* FLA. CONST. art. VII, s. 4.
[41] Ch. 2023-17, s. 8, Laws of Fla, codified as s. 196.1978(3), F.S.
[42] S. 196.1978(3)(b), F.S.
[43] S. 196.1978(3)(k), F.S.
[44] S. 196.1978(3)(a)2., F.S.

threshold.[45] Rent for such units may not exceed 90 percent of the fair market value of rent as determined by a rental market study.[46]

Qualified property used to provide affordable housing at the 80 to 120 percent AMI threshold receives an exemption of 75 percent of the assessed value of the affordable units, while such property providing affordable housing up to the 80 percent AMI threshold receives a complete ad valorem tax exemption for the affordable units.[47]

To receive this exemption, a property owner must apply by March 1 to the property appraiser, accompanied by a certification notice from FHFC.[48] To receive FHFC certification, a property owner must submit a request on a form including the most recent market study, which must have been conducted by an independent certified general appraiser in the preceding three years, a list of units for which the exemption is sought, the rent amount received for each unit, and a sworn statement restricting the property for a period of not less than three years to provide affordable housing.[49]

The certification process is administered within FHFC. FHFC is responsible for publishing the deadline for submission, reviewing each request, sending certification notices to both the successful property owner and the appropriate property appraiser, and notifying unsuccessful property owners with reasons for denial.[50]

This exemption first applied to the 2024 tax roll and will expire on December 31, 2059.

Local Option Affordable Housing Ad Valorem Exemption

The Live Local Act authorizes counties and municipalities to enact an ad valorem tax exemption for certain property used for providing affordable housing.[51]

Portions of property eligible for the exemption must be utilized to house persons or families meeting the extremely-low- limit[52] or with incomes between 30 to 60 percent of AMI, be contained in a multifamily project of at least 50 units where at least 20 percent are reserved for affordable housing, and have rent set such that it provides affordable housing to people in the target income bracket, or no higher than 90 percent of the fair market rent value as determined by a rental market study, whichever is less.[53] Additionally, the property must not have been cited for code violations on three or more occasions in the preceding 24 months and must not have outstanding code violations or related fines.[54]

In adopting this exemption, a local government may choose to offer either or both an exemption for extremely-low-income (up to 30 percent AMI) and for incomes between 30 to 60 percent AMI targets. The value of the exemption is up to 75 percent of the assessed value of each unit if less than 100 percent of the multifamily project's units are used to provide affordable housing, or up to 100 percent of the assessed value if all of the project's units are used to provide affordable housing.[55]

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[45] S. 196.1978(3)(b)1., F.S.
[46] S. 196.1978(3)(b)3., F.S.
[47] S. 196.1978(3)(d), F.S.
[48] S. 196.1978(3)(e), F.S.
[49] S. 196.1978(3)(f), F.S.
[50] S. 196.1978(3)(g), F.S.
[51] Ch. 2023-17, s. 9, Laws of Fla., codified as s. 196.1979, F.S.
[52] S. 420.0004(9), F.S.
[53] S. 196.1979(1)(a)1.-3., F.S.
[54] S. 196.1979(1)(a)4., F.S.
[55] S. 196.1979(1)(b), F.S.

An ordinance enacting such an exemption must:

- Be adopted under normal non-emergency procedures.
- Designate the local entity under the supervision of the governing body that must develop, receive, and review applications for certification and develop notices of determination of eligibility.
- Require the property owner to apply for certification on a form including the most recent market study, which must have been conducted by an independent certified general appraiser in the preceding three years; a list of units for which the exemption is sought; and the rent amount received for each unit.
- Require the designated entity to verify and certify the property as having met the requirements for the exemption, and notify unsuccessful applicants with the reasons for denial.
- Set out the requirements for each unit discussed above.
- Require the property owner to submit an application for exemption accompanied by certification to the property appraiser by March 1.
- Specify that such exemption only applies to taxes levied by the unit of government granting the exemption.
- Specify that the property may not receive such an exemption after the expiration of the ordinance granting the exemption.
- Identify the percentage of assessed value to be exempted, and whether such exemption applies to very-low-income, extremely-low-income, or both.
- Require that the deadline to submit an application and a list of certified properties be published on the local government's website.[56]

The ordinance must expire before the fourth January 1 after adoption; however, the local governing body may adopt a new ordinance renewing the exemption.[57]

If the property appraiser determines that such an exemption has been improperly granted within the last 10 years, the property appraiser must serve the owner with a notice of intent to record a tax lien. Such property will be subject to the taxes improperly exempted, plus a penalty of 50 percent and 15 percent annual interest. Penalty and interest amounts do not apply to exemptions erroneously granted due to clerical mistake or omission by the property appraiser.[58]

Florida Hometown Hero Program

The Florida Hometown Hero Program is a homeownership assistance program administered by FHFC.[59] Under the program, eligible first-time homebuyers, servicemembers, or veteran may access zero-interest loans to reduce the amount of down payment and closing costs by a minimum of $10,000 to a maximum of 5 percent or $35,000, whichever is less.[60] Loans must be repaid when the property is sold, refinanced, rented, or transferred unless otherwise approved by FHFC. Repayments for loans made under this program must be retained within the program to make additional loans.[61]

Loans under the program are available to qualifying homebuyers seeking first mortgages whose family incomes do not exceed 150 percent of the state or local AMI, whichever is greater, and are employed full-time by a Florida-based employer.[62] The borrower must provide documentation of full-time employment, or full-time status for self-employed individuals, of 35 hours or more per week.

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[56] S. 196.1979(3), F.S.
[57] S. 196.1979(5), F.S.
[58] S. 196.1979(6), F.S.
[59] Ch. 2013-17, s. 35, Laws of Fla., codified as s. 420.5096, F.S.
[60] S. 420.5096(2), F.S.
[61] S. 420.5096(5), F.S.
[62] S. 420.5096(3), F.S.

For Fiscal Year (FY) 2023-24, $100 million in non-recurring funds was appropriated to FHFC to implement the Florida Hometown Hero Program.[63] FHFC obligated the full appropriation by August 22, 2023, assisting over 6,400 families and leveraging approximately $2 billion in first mortgages.[64]

Effect of the Bill

Land Use for Affordable Housing Development

The bill provides that affordable units in a development qualifying for the preemption of certain county and municipal zoning and land use decisions in targeted land use areas must be rental units.

The bill clarifies that the prohibition on restricting the density of qualifying development is based on the highest currently allowed density for residential development, not including the density of any building that has received a bonus, variance, or other special exception for density.

The bill prohibits local governments from restricting the intensity of a proposed development, as expressed in floor area ratio (FAR), below 150 percent of the highest currently allowed FAR under the county's land development regulations. The bill provides that the highest currently allowed FAR does not include the FAR of any building that has received a bonus, variance, or other special exception for FAR. For purposes of this prohibition, FAR includes floor lot ratio.

The bill clarifies that the prohibition on restricting the height of a qualifying development is based on the highest currently allowed height for a commercial or residential building located in the local government's jurisdiction within one mile of the proposed development or three stories, whichever is higher, not including the density of any building that has received a bonus, variance, or other special exception for density. The bill creates an exception to this prohibition for a proposed development that is adjacent to, on two or more sides, a parcel zoned for single-family residential use that is within a single-family residential development with at least 25 contiguous single-family homes. In those areas, the bill limits the height of the proposed development to 150 percent of the tallest building on any property adjacent to the proposed development, the highest currently allowed height for the property, or three stories, whichever is higher. The bill defines "adjacent to" for the purpose of the exception as those properties sharing more than one point of a property line, but not including properties separated by a public road.

The bill precludes a proposed development located within one-quarter mile of a military installation from being approved administratively, and requires counties and municipalities to publish on their website a policy containing procedures and expectations for the administrative approval of qualifying developments.

The bill modifies the parking reduction requirements for qualifying developments by requiring local governments to:

- Reduce parking requirements by at least 20 percent for developments within one-half mile of a "major transportation hub"[65] accessible from the proposed development and has alternative parking available within 600 feet. A county may not require that the available parking be sufficient to compensate for the reduction in parking requirements.
- Eliminate parking requirements for developments within a transit-oriented development or area, as recognized by the local government. The proposed development must be mixed-use residential and otherwise comply with the local government's regulations concerning transit-

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[63] Ch. 2013-17, s. 44, Laws of Fla.
[64] *See* Florida Senate Committee on Community Affairs, *Presentation by the Florida Housing Finance Corporation on its implementation of the Live Local Act (SB 102 – 2023 Regular Session)*, Nov. 7, 2023, https://www.flsenate.gov/Committees/Show/CA/MeetingPacket/5940/10486_MeetingPacket_5940_2.pdf (last visited Jan. 24, 2024).
[65] The bill defines "major transportation hub" as any transit station, whether bus, train, or light rail, which is served by public transit with a mix of other transportation options.

oriented development, except for use, height, density, FAR, and parking provided by this exception or otherwise agreed to by the local government and the developer.

The bill clarifies that these provisions do not limit a local government's ability to grant a bonus, variance, or other special exception for height, density, or FAR in addition to the required entitlements. The bill does not preclude a proposed development from receiving a bonus for height, density, or FAR pursuant to a local government's ordinance or regulation, provided the development meets the conditions to receive the bonus except for any conditions that conflict with this provision. If a proposed development qualifies for such bonus, the bonus must be administratively approved by the local government and no further action by the local governing body is required.

The bill provides that qualifying developments must be treated as a conforming use after expiration of the development's affordability period of at least 30 years and after the sunset of ss. 125.01055(7) and 166.04151(7), F.S., on October 1, 2033. However, if at any point during the development's affordability period the development violates the affordability requirement, the development must be allowed a reasonable time to cure such violation. If the violation is not cured within a reasonable time, the development must be treated as a nonconforming use.

The bill does not apply to proposed developments:
- Near a runway within one-quarter of a mile laterally from the runway edge and within the area that is the width of one-quarter of a mile extending at right angles from the end of the runway for a distance of 10,000 feet;
- In any airport noise zone identified in a federal land use compatibility table or land-use zoning or airport noise regulation adopted by the local government; or
- That exceed the maximum height restrictions identified in a local government's airport zoning regulation.

The bill provides that an applicant for a proposed development who applied, gave written request, or notice of intent to utilize such provisions to the county or municipality and which has been received by the county or municipality before the effective date of the bill may notify the county or municipality by July 1, 2024, of its intent to proceed under the provisions of s. 125.01055(7), F.S., or s. 166.04151(7), as they existed at the time of submittal. A county or municipality must allow an applicant who submitted an application, written request, or notice of intent before the effective date of the bill the opportunity to submit a revised application, written request, or notice of intent to account for the changes made by the bill.

<u>Ad Valorem Tax Exemptions</u>

The bill makes the following changes to the ad valorem tax exemption for newly constructed developments:
- Requires fewer units in developments located in the Florida Keys to be set aside for income-limited persons and families (10 instead of 70). This acknowledges the stricter land development regulations for that area as compared to the rest of the state.
- Clarifies that FHFC's duties are ministerial while property appraisers maintain the ultimate authority to grant exemptions.
- Outlines the method for property appraisers to determine values of exempted units in a manner that is similar to other exemptions in statute.

The bill also clarifies that the local option ad valorem exemption applies to 100 percent of the assessed value of each residential unit used to provide affordable housing and requires the property appraiser to include the preparation share of residential common areas, including land, to each unit when determining the value of the exemption. The bill also clarifies the duties of the property appraiser in

determining when a property is eligible for the exemption. The bill provides that units used as a transient public lodging establishment are not eligible for the exemption.[66]

The bill provides that the changes to the tax exemptions are intended to be remedial and clarifying in nature and apply retroactively to January 1, 2024.

Florida Hometown Hero Program

The bill removes the requirement for borrowers to provide documentation to FHFC to prove their full-time employment or self-employment status equates to 35 hours or more per week. The bill also appropriates $100 million in nonrecurring funds from the General Revenue Fund to FHFC to implement the Florida Hometown Hero Program.

Florida Housing Finance Corporation

The bill expands the list of violations for which FHFC may preclude sponsors and affiliates of sponsors from participating in its programs to include:

- Being debarred from participation in federal housing programs by HUD.
- Being excluded from any federal procurement programs.
- Materially or repeatedly violating any condition imposed by FHFC in connection with the administration of its programs, including a land use restriction agreement, an extended use agreement, or any other financing or regulatory agreement with FHFC.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

With the funding of the Florida Hometown Hero Program, Floridians who are first-time homebuyers will have access to zero-interest loans to help pay for their down payment and closing costs.

D. FISCAL COMMENTS:

[66] A "transient public lodging establishment" is any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. S. 509.013(4)(a)1., F.S.

The Revenue Estimating Conference reviewed the portions of the bill related to the ad valorem tax exemption on newly constructed affordable housing developments, which lowers the minimum number of affordable units in a development from 70 units to 10 units in order to qualify for the exemption for those projects located in an area of critical state concern and estimated the bill will have a negative indeterminate impact.

The bill appropriates $100 million in non-recurring funds from the General Revenue Fund to FHFC to implement the Florida Hometown Hero Program.