

LEGISLATIVE ROUNDUP

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The 2023 Florida Legislative Session was a big one for affordable housing. While the Live Local Act was at the fore of most of the housing industry's minds, several other bills affected low-income Floridians. This article summarizes some of the housing-related bills signed into law from the 2023 Legislative Session.

The Florida Housing Coalition's main legislative priority is to ensure that all funds collected in our state's Sadowski Housing Trust Funds are utilized for affordable housing purposes, particularly for the SHIP and SAIL programs. This Session brought tremendous victories on the affordable housing funding front.

The Legislature not only appropriated all the money in the Sadowski Trust Funds for SHIP and SAIL for the third straight year but committed an extra \$150 million per year for 10 years for SAIL with targeted uses and greater flexibilities than regular SAIL dollars and created a new Live Local Tax Donation Program to further fund the SAIL program. We look forward to seeing all the positive impacts these state dollars provide and to the Legislature continuing its commitment to funding affordable housing in Florida in the 2023-24 Legislative Session.

SB 102 - LIVE LOCAL ACT

This wide-ranging piece of legislation contained a variety of policies aimed at building more housing that is affordable in Florida. Here are some of the policies contained in the Act.

FUNDING

The Act provided up to \$811 million for affordable housing programs, including \$511 million for SHIP and SAIL – fully funding the core Sadowski Trust Fund programs. Below is a breakdown of the funding allocated in the Live Local Act compared to the two prior state fiscal years. These numbers do not include the housing funding contained in the final budget, which brought total housing funding to over \$1 billion.

PROGRAM	LIVE LOCAL ACT	FY 22-23	FY 21-22
State Housing Initiatives Partnership (SHIP) Program	\$252,000,000	\$209,475,000	\$146,700,000
State Apartment Incentive Loan (SAIL) Program	\$259,000,000	\$53,250,000	\$62,500,000
Hometown Heroes Program	\$100,000,000 (from General Revenue)	\$100,000,000 (from the Sadowski Trust Fund)	
Inflation Response Program	\$100,000,000	N/A	N/A
Live Local Tax Donation Program	Up to \$100,000,000	N/A	N/A
Total Funding	\$811,000,000	\$512,725,000	\$209,200,000

The Act also redirects \$150 million per year for 10 years to SAIL to be used on defined projects, creates a new Live Local Corporate Tax Donation program, codifies the Hometown Heroes program in state law, increases the Community Contribution Tax Credit Program, and expands the Job Growth Grant Fund to include affordable housing-related infrastructure expenses.

ZONING, LAND USE, AND THE ROLE OF LOCAL GOVERNMENTS

The Act contained two major land use provisions for affordable housing and encouraged local governments to adopt “innovative solutions” to address the housing crisis. First, the Act creates two new subsections of Florida law (s. 125.01055(7) & s. 166.04151(7)) to facilitate affordable housing development on parcels zoned for commercial, industrial, or mixed-uses as long as at least 40% of the development is set aside as affordable housing to households up to 120% AMI. Second, the Act amends an existing land use tool at s. 125.01055(6) & s. 166.04151(6) to remove its applicability to residential parcels and the prohibition on using the tool for SAIL-funded projects.

In addition to the two land use tools in chapters 125 and 166 of the Florida Statutes for counties and cities, respectively, the Act also amends the state’s “surplus land” laws to create more transparency and accountability when utilizing publicly owned land for affordable housing. The Act now requires local governments to post their affordable housing land inventory lists online pursuant to s. 125.379 and s. 166.0451, encourages best practices when using public land for long-term affordable

housing, and extends the affordable housing land inventory requirement to all dependent special districts.

The Act also prohibits local government from enacting rent stabilization measures, requires cities and counties to post expedited permitting procedures online, and encourages jurisdictions to adopt a variety of best practices pertaining to affordable housing policy.

TAX EXEMPTIONS

The Act contained three new property tax exemptions for affordable housing. They are as follows:

1. Nonprofit land exemption (new s. 196.1978(1)(b)) – provides property tax exemption to land owned by a nonprofit organization and leased for a minimum of 99 years to predominately provide affordable housing to households at or below 120% AMI.
2. Missing middle exemption (new s. 196.1978(c)) – provides property tax exemptions to developments with 71 or more affordable units to households at or below 120% AMI.
3. Local option property tax exemption (new s. 196.1979) – authorizes local governments to adopt a property tax exemption for developments that are at least 50 units and set aside at least 20% of its units as affordable housing to households at or below 60% AMI.

The Act also contained a sales tax refund for building materials for eligible affordable housing developments.

OTHER POLICIES IN LIVE LOCAL

The Act also addressed policies pertaining to the Florida Housing Finance Corporation, the Catalyst Program, the State's Housing Strategy, and other reforms.

HB 133 - FEES IN LIEU OF SECURITY DEPOSITS

This bill authorizes landlords to give tenants the option to pay a monthly fee in-lieu of a security deposit. Of great importance is that the fee is non-refundable and would not act as a security deposit; the tenant would still be liable for damages beyond normal wear and tear. There is also no cap on the amount of a monthly fee that can be charged. Education will need to be done to ensure that tenants understand what they are signing up for if offered a fee in-lieu of a security deposit. This option, if offered, may eliminate the barrier of an unaffordable security deposit at the beginning but would lock a tenant into a higher, nonrefundable monthly payment for the duration of the lease with the possibility of owing additional amounts at the end of the lease term.

HB 1417 - RESIDENTIAL TENANCIES

In light of the COVID-19 pandemic, communities across the state passed a variety of local tenant protections, such as increased notice provisions for month-to-month tenancies and increased notice for rental increases, among other local reforms. This bill would strike down a number of local tenant protections and preempts to the state the regulation of residential tenancies. HB 1417 effectively prohibits local governments from enacting ordinances governing notice requirements for residential tenancies, the screening process for approving tenancies, fees, terms and conditions of rental agreements, disclosures concerning the premises, security deposits, and other elements of the landlord-tenant relationship. The bill also increases the notice period for terminating a month-to-month tenancy from 15 to 30 days.

SB 250 - NATURAL EMERGENCIES

This bill covers a variety of disaster-related reforms in light of Hurricanes Ian and Nicole. The bill enacts statewide standards for approving

temporary residential structures for 36 months following a natural emergency, allows “registered contractors” to work in areas covered by a state of emergency regardless of if they are registered locally, restricts local governments within 100 miles of where Hurricanes Ian and Nicole made landfall from adopting more restricting land development regulations before October 2024, and other resilience-related reforms.

HB 881 - MY SAFE FLORIDA HOME PROGRAM

This bill amends the My Safe Florida Home Program statute – a program that funds home mitigation inspections and mitigation grants for homesteaded properties. The bill removes a requirement that mitigation grants only be provided in a “wind-born debris region,” increases the grant amount for low-income homeowners to \$10,000 from \$5,000, and funds the program at \$100 million.

SB 678 - DISPOSAL OF PROPERTY

This bill authorizes the Florida Department of Transportation (FDOT) to convey land not needed for transportation facilities to other governmental entities without consideration for affordable housing purposes. This bill could result in more land owned by FDOT being used for affordable housing.

OTHER BILLS OF INTEREST

HB 111 – Flooding and Sea Level Rise Vulnerability Studies, which revises purposes for which EP may provide grants under the Resilient Florida Grant Program to counties, municipalities, and water management districts.

SB 154 – Condominium and Cooperative Associations is legislation that revises the milestone inspection requirements for condominium and cooperative buildings.

WHAT'S NEXT?

The 2023-24 Legislative Session is right around the corner; committee weeks for the 2023-24 Legislative Session begin in October 2023, and the Regular Session begins in January 2024. The Florida Housing Coalition will continue to work with the Sadowski Coalition to ensure that the Legislature fully funds the Sadowski Trust Fund programs and provides additional affordable housing resources with General Revenue.



NEW SERVICES ANNOUNCEMENT!

NEW LIVE LOCAL ACT RESOURCES AVAILABLE

Thanks to the generous support of the Florida Housing Finance Corporation, the Florida Housing Coalition now provides free resources to local agencies and non-profit groups!

01 Live Local Site Visits
Up to 15 hours of free training and technical assistance to local governments.

02 LLA-Specific webinars and regional workshops
Free training and networking opportunities.

03 Off-Site Technical Assistance
Up to 10 free hours for local governments and non-profit organizations.

FOR MORE INFORMATION
Visit Us Online: www.flhousing.org



KODY GLAZER is the Chief Legal and Policy Officer of the Florida Housing Coalition. Kody is an expert on inclusionary housing policies, community land trusts, fair housing, land use, and the law as it relates to housing.

During our 2023 Conference in August, we will hold a special Public Policy Forum answering all your questions on the newly passed SB 102 (the Live Local Act). This open forum will feature a panel of experts who will discuss future advocacy and answer your questions regarding the act.