



A Comprehensive Overview of the Live Local Act

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Since its passing in 2023, the Live Local Act has represented a generational retooling of state housing policy in Florida. Not only did the Act fully fund and further supplement our state's core Sadowski affordable housing programs in SHIP and SAIL, but it also contained a variety of tax incentives, land use policies, publicly owned land tools, and other strategic initiatives that are designed to expand opportunities to viably produce more affordable and workforce housing options to better accommodate the needs of Florida's growing and diverse communities. Given that the Act has provided such a broad range of new statewide housing policies and resources, it is important that there is a general understanding of how the Act's provisions may be interpreted and differentiated. For example, what exactly does it mean when referring to a "Live Local Act deal"? This lack of clarity can cause confusion among stakeholders and the public when making key decisions. To serve as a resource for our state's housing ecosystem, or for those who are generally interested in the potential impacts of the Act, this document provides an overview of the Act's provisions as currently codified following the passing of amendments to the Act in 2024.

Property Tax Exemptions of the Live Local Act

1. Multifamily Middle Market ("Missing Middle") Property Tax Exemption - new s. 196.1978(3), Florida Statutes

The "Missing Middle" property tax exemption, also called the Multifamily Middle Market exemption, is a new ad valorem property tax exemption provided by the Act.

Newly constructed multifamily developments with more than 70 affordable units for households up to 120 percent Area Median Income (AMI) are eligible to receive property tax exemptions for the affordable units provided. Units within eligible developments that serve households from 80-120 percent AMI receive a 75 percent property tax exemption and units that serve households below 80 percent AMI receive a 100 percent property tax exemption. Those units receiving the exemption are subject to the rent limits specified in the most recent multifamily rental programs income and rent limit chart posted by the Florida Housing Finance Corporation (FHFC) and derived from the Multifamily Tax Subsidy Projects Income Limits published by the U.S. Department of Housing and Urban Development, or 90 percent of the fair market value as determined by a rental market study meeting the requirements of s. 196.1978(3), whichever is less.

Units that are subject to an agreement with FHFC pursuant to Chapter 420, F.S. recorded in the official records of the county in which the property is located to provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004 are not eligible for this exemption. Properties receiving a county and municipal affordable housing property tax exemption pursuant to s. 196.1979 are also not eligible.

There is a two-step process for property owners to receive this exemption. First, property owners must apply for and receive a "certification notice" from FHFC certifying that the property is eligible



for the exemption. FHFC is responsible for creating and overseeing the application process to provide such notices based on guidance in the Live Local Act. Second, if the property owner receives this “certification notice”, they must then apply to their local property appraiser for a formal exemption. This is the point at which duties shift from FHFC to the local property appraiser. The exemption will need to be renewed each year per the local property appraiser’s typical process for renewing property tax exemptions and the property owner must swear, under penalty of perjury, that the property will be affordable for at least 3 years after initially receiving the exemption. In other words, starting in year 4, a property owner can choose to convert the affordable units to market-rate but will have to forgo the property tax exemption.

Option for Taxing Authorities to Opt-Out from Allowing the “Missing Middle” Property Tax Exemption:

Passed as part of the 2024 Legislative Session’s tax package (House Bill 7073), this amendment to the Live Local Act allows taxing authorities to opt-out from providing the 75 percent “Missing Middle” property tax exemption in their jurisdiction to those units that fall within the 80-120 percent AMI affordability threshold.

The eligibility of taxing authorities to utilize the opt-out is contingent upon certain requirements. To be eligible, the taxing authority must be located in a county in which the number of affordable and available units for households at or below 120 percent AMI is greater than the number of households at that income level, as determined by the most recent Shimberg Center for Housing Studies Annual Report. For clarification, the Annual Report is a separate publication from the Shimberg Center for Housing Studies’ Rental Market Study which is published every three years.

If the taxing authority is eligible to opt-out according to the most recently published Shimberg Center for Housing Studies Annual Report, the taxing authority must follow certain procedural requirements to enable the opt-out. Specifically, the taxing authority must adopt an ordinance or resolution to opt out from providing the property tax exemption, as approved by a two-thirds majority vote of the local governing body. This ordinance or resolution must then be renewed annually by January 1 in order to maintain their opt-out status for this property tax exemption, assuming that a newly published Shimberg Center for Housing Studies Annual Report does not indicate that the taxing authority is within a county in which the number of affordable and available units for households at or below 120 percent AMI is greater than the number of households at that income level. Per the most recently published 2023 Shimberg Center for Housing Studies Annual Report, taxing authorities within 50 of Florida’s 67 counties can opt out.

Note that any property owner of a multifamily project who was granted an exemption prior to the adoption of an ordinance or resolution by the taxing authority to opt-out may continue to receive the exemption for each subsequent consecutive year that the property owner applies for and is granted the exemption.



3. Nonprofit Land w/a 99-Year Ground Lease Exemption - new s. 196.1978(1)(b), Florida Statutes

With this new exemption, land owned entirely by a 501(c)(3) organization that is leased for a minimum of 99 years for the purpose of, and is predominantly used for, providing affordable housing to households at or below 120 percent AMI is exempt from property taxes. Land is “predominantly used” for affordable housing if greater than 50 percent of the square footage of the improvements are used to provide affordable housing. Note that only the land is exempt from property taxes with this exemption.

4. Local Option Property Tax Exemption - new s. 196.1979, Florida Statutes

Section 9 of the Live Local Act grants cities and counties a new tool to encourage the development of affordable housing. At the newly created s. 196.1979 of the Florida Statutes, Florida’s local governments now have the discretion to provide ad valorem tax exemptions to developments with 50 or more units that set aside at least 20 percent of its units as affordable housing to households making 60 percent or below AMI. The Act provides the process by which local governments can enact this new local option.

5. 99-Year Affordability Property Tax Exemption for FHFC-Funded Properties - new s. 196.1978(4), Florida Statutes

Created by House Bill 7073, this new property tax exemption allows for a 100 percent exemption for portions of eligible properties used to provide affordable housing, beginning with the January 1 assessment immediately succeeding the date the property was placed into service. To be eligible for this property tax exemption, a multifamily project must be composed of an improvement to land where an improvement did not previously exist or the construction of a new improvement where an old improvement was removed, which was substantially completed within 2 years before the first submission of an application for exemption under this subsection. The property must also contain more than 70 units that are affordable to households at or below 80 percent AMI.

In addition to these requirements, to be eligible to receive the exemption, the property must also be subject to a land use restriction agreement with the Florida Housing Finance Corporation (FHFC) recorded in the official records of the county in which the property is located that requires that the property be used for 99 years to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, low-income, or moderate income limits specified in s. 420.0004. This agreement must also include a provision for a penalty for ceasing to provide affordable housing under the agreement before the end of the agreement term that is equal to 100 percent of the total amount financed by FHFC multiplied by each year remaining in the agreement.

Also note that, if the property ceases to serve extremely-low-income, very-low-income, or low-income persons pursuant to the recorded agreement, the property will no longer be eligible for the exemption. Properties that receive the Local Option Property Tax Exemption pursuant to s. 196.1979 are also ineligible for this exemption. This property tax exemption will first apply to the 2026 tax roll.



Land Use Provisions of the Live Local Act

These provisions of the Live Local Act introduce state-mandated land use entitlements for eligible affordable housing developments in areas zoned for commercial, industrial, and mixed-use. To be eligible for these entitlements, a proposed project must set aside at least 40 percent of its total units as affordable rental units to income-eligible households (at or below 120 percent AMI) for a period of at least 30 years. For proposed developments meeting these eligibility criteria, Florida cities and counties are now required to allow multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed-use and are also subject to statutory parameters regarding density, height, floor area ratio, administrative approval, and certain parking standards.

In practice, the Act's land use provisions preempt cities and counties from requiring that a proposed development meeting those above-referenced eligibility requirements obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for use, density, height, or floor area ratio. This may also apply to parking requirements under certain limited circumstances.

As of May 2024, the following land use entitlements are provided in the Live Local Act's land use mandate for proposed, eligible affordable housing developments in commercial, industrial, and mixed-use areas:

- *Use:*
 - *Multifamily or mixed-use with multifamily allowance in commercial, industrial, or mixed-use zones without zoning or land use change.*
- *Density:*
 - *Highest density allowed on any land in City or County where residential development is allowed*
- *Height:*
 - *Highest currently allowed height for a commercial or residential development within 1 mile of the proposed development or 3 stories, whichever is higher.*
 - *Exception: if a proposal is on two or more sides adjacent to single-family-zoned property within a single-family-zoned development with at least 25 contiguous single-family homes, a municipality may limit the highest of the following:*
 - *150 percent of the tallest building adjacent to the proposed development.*
 - *The highest currently allowed height for the property based on land development regulations.*
 - *3 stories*
- *Parking requirements:*
 - *Local governments must "consider" reducing parking requirements for eligible proposed projects that would be located within ¼ mile of a transit stop.*
 - *Local governments must reduce parking requirements by at least 20 percent if the eligible proposed project is to be located within ½ mile of a "major transportation" hub and has available parking within 600 feet.*



- Local governments are required to eliminate parking requirements for eligible proposed projects that are within a Transit-Oriented Development (TOD).
- *Floor area ratio (FAR):*
 - Local governments are prohibited from limiting the FAR below 150 percent of the highest currently allowed FAR in the jurisdiction where development is allowed under the jurisdiction's land development regulations.
- *Administrative approval:*
 - *A development proposal must be administratively approved if the proposal satisfies the land development regulations and is otherwise consistent with the comprehensive plan excepting density, FAR, height, and use.*
 - *Local governments are required to maintain administrative approval procedures publicly on their website.*
- *Calculating entitlements:*
 - Bonus entitlements are not to be included in the maximum height, density, or FAR.
- *Non-conforming use:*
 - Projects that remain affordable will be considered conforming uses, beyond the 2033 statutory sunset.
- *Other notable provisions:*
 - Exceptions for properties defined as recreational and commercial working waterfront in any area zoned industrial.
 - Exceptions for areas in close proximity to an airport in any "airport-impacted areas," as provided in s. 333.03.
 - A proposed development located within ¼ mile of a military installation may not be administratively approved. Each county is required to maintain on its website a policy containing procedures and expectations for administrative approval for these proposed developments.

Funding Commitments of the Live Local Act

1. Florida Hometown Heroes Program - s. 420.5096, Florida Statutes

Administered by FHFC, the Florida Hometown Heroes Program is an affordable homeownership program that provides down payment and closing cost assistance to first-time homebuyers who meet certain eligibility requirements pertaining to income qualification and employment.

The Hometown Heroes Program has seen several changes since its initial launch in 2022. The Program was not codified in Florida Statutes until it was done so as part of the Live Local Act in 2023. Prior to its codification as part of the Act, the first iteration of the Hometown Heroes Program in 2022 had more specific employment eligibility requirements, with eligible occupations being primarily limited to the professional sectors of law enforcement, public safety, education, healthcare, active military, and military veterans.

To be eligible for the Hometown Heroes Program as it is now provided in statute after the Live Local Act, in addition to being a first-time homebuyer, an applicant must be employed full-time (35



hours or more per week) by a Florida-based employer. An applicant's household income may not exceed 150 percent of the state median income or local median income, whichever is higher.

The Hometown Heroes Program allows eligible borrowers to secure interest-free loans from FHFC to reduce down payment and closing costs by a minimum of \$10,000 and up to 5 percent of the first mortgage loan, not to exceed \$35,000. The balance of any loan made through the Hometown Heroes Program is due at closing if the property is sold, refinanced, rented, or transferred, unless otherwise approved by FHFC. These loan repayments are to be retained within the Hometown Heroes Program to make additional loans, allowing the Program to continue as an intended "evergreen" resource.

Loan made under the Hometown Heroes Program may also be used for the purchase of manufactured homes as defined in s. 320.01(2)(b) that were constructed after July 13, 1994, are permanently affixed to real property in this state, whether owned or leased by the borrower, and are titled and financed as tangible personal property or as real property.

2. "Innovative" SAIL Funding Initiatives - s. 420.50871, Florida Statutes

The Live Local Act also dedicated a new stream of recurring SAIL funds to be administered by FHFC for certain affordable housing purposes as provided in the newly created s. 420.50871. Starting with fiscal year 2023-2024, and for 10 years thereafter, an expected total of \$150 million per year, or \$1.5 billion over 10 years, in SAIL funds resulting from increased revenues to the State Housing Trust Fund will be awarded by FHFC through their competitive Request for Applications (RFA) process. These funds are expected to be allocated evenly over the ten-year period, amounting to \$150 million per year that will be prioritized by FHFC according to the following splits as provided in s. 420.50871

- 70 percent of these SAIL funds are to be dedicated to finance projects that:
 - Both redevelop an existing affordable housing development and provide for the construction of a new development within close proximity to the existing development to be rehabilitated. Each project must provide for building the new affordable housing development first, relocating the tenants of the existing development to the new development, and then demolishing the existing development for reconstruction of an affordable housing development with more overall and affordable units.
 - Address urban infill, including conversions of vacant, dilapidated, or functionally obsolete buildings or the use of underused commercial property.
 - Provide for mixed use of the location, incorporating nonresidential uses, such as retail, office, institutional, or other appropriate commercial or nonresidential uses.
 - Provide housing near military installations in this state, with preference given to projects that incorporate critical services for servicemembers, their families, and veterans, such as mental health treatment services, employment services, and assistance with transition from active-duty service to civilian life.



- The remaining 30 percent of these SAIL funds are to be dedicated to projects that serve any of the following purposes:
 - Propose using or leasing public lands. Projects that propose to use or lease public lands must include a resolution or other agreement with the unit of government owning the land to use the land for affordable housing purposes.
 - Address the needs of young adults who age out of the foster care system.
 - Meet the needs of elderly persons.
 - Provide housing to meet the needs in areas of rural opportunity, designated pursuant to s. 288.0656.

Starting with the 2023 RFA cycle and continuing forward until 2033, FHFC has been workshopping and posting new RFAs to award these additional SAIL funds for proposed projects that fulfill these above-referenced innovative housing approaches. Reference the FHFC website for more information on the specific requirements of these RFAs.

3. Live Local Tax Donation Program - s. 420.50872, Florida Statutes

The Live Local Act created a new tax donation program to allow taxpayers to direct payments to FHFC for use as SAIL funds in exchange for tax credits against corporate or insurance premium tax liability. Tax donations collected through this program are to be capped at a maximum amount of \$100 million for each state fiscal year. 100 percent of eligible contributions received through this tax donation program must be directed to the SAIL program. Up to \$25 million of the tax donations received for a state fiscal year may be used to provide SAIL loans for the construction of large-scale projects of significant regional impact as provided in s. 420.50872.

4. Changes to the Florida Job Growth Grant Fund - s. 288.101, Florida Statutes

Administered by the Florida Department of Commerce (Commerce), the Florida Job Growth Grant Fund is an economic development program that exists to improve public infrastructure and enhance workforce training. Commerce reviews submitted proposals for state or local public infrastructure projects made by public entities that promote economic recovery in specific regions of the state, economic diversification, or economic enhancement in a targeted industry. Commerce then makes funding recommendations to the Governor for approval.

The Florida Job Growth Grant Fund was expanded by the Live Local Act to make eligible proposals for state or local public infrastructure projects that facilitate the development or construction of affordable housing. This provision will sunset July 1, 2033. These funds may not be used for the exclusive benefit of any single company, corporation, or business entity. In other words, affordable housing developers do not apply directly for these funds; a public entity would apply for funding and then the funding can only incidentally benefit specific developers.



Using Publicly Owned Land for Affordable Housing - s. 125.379/166.0451

The Live Local Act has updated and reinforced state laws pertaining to the use of publicly owned land for affordable housing. Also known as Florida's "surplus land laws," all Florida cities and counties are required to identify publicly owned lands that are "appropriate for affordable housing" to be placed on an affordable housing land inventory list. The Live Local Act has extended these requirements to also apply to special dependent districts and also now requires that local governments make the inventory list publicly available on its website to encourage development. The Act provided an additional clarification that land placed on these inventories can be used for affordable housing "through a long-term land lease," while also outlining several best practices that local governments may adopt for their surplus land programs, such as:

- Establishing eligibility criteria for the receipt or purchase of surplus land by developers;
- Making the process for requesting surplus lands publicly available; and
- Ensuring long-term affordability through ground leases by retaining the right of first refusal to purchase property that would be sold or offered at market rate and by requiring reversion of property not used for affordable housing within a certain timeframe.

In addition to these codified requirements and best practices, the Florida Housing Coalition has also recommended best practices related to public land disposition for affordable housing purposes by local governments. Because local governments have discretion as to what makes a parcel of public land "appropriate" for affordable housing development as it currently is provided in state law, the Coalition recommends that local policies to determine the appropriateness of public lands for potential affordable housing development clearly directing local government staff, while also considering site criteria such as:

- Physical site characteristics such as lot size, shape, and existing zoning,
- Availability of existing infrastructure
- Proximity to jobs, transit, and other amenities
- Environmental considerations
- Whether the land is needed for another governmental purpose.

Additional Provisions of the Live Local Act

1. Amendments to the State Housing Strategy - s. 420.0003, Florida Statutes

The Live Local Act also provided substantial amendments to the state housing strategy. These amendments include a statement of policy that local governments in the state shall "provide incentives to encourage the private sector to be the primary delivery vehicle for the development of affordable housing," such as the establishment of density bonus incentives. Additional innovative solutions to housing issues are also suggested where appropriate, such as:



- Utilizing publicly held land to develop affordable housing through state or local land purchases, long-term land leasing, and school district affordable housing programs.
- Community-led planning that focuses on urban infill, flexible zoning, redevelopment of commercial property into mixed-use property, resiliency, and furthering development in areas with preexisting public services, such as wastewater, transit, and schools.
- Project features that maximize efficiency in land and resource use, such as high density, high rise, and mixed use.
- Mixed-income projects that facilitate more diverse and successful communities.
- Modern housing concepts such as manufactured homes, tiny homes, 3D-printed homes, and accessory dwelling units (ADUs).

The Shimberg Center for Housing Studies at the University of Florida is now directed to “develop and maintain statewide data on housing needs and production, provide technical assistance relating to real estate development and finance, operate an information clearinghouse on housing programs, and coordinate state housing initiatives with local government and federal programs,” and to “perform functions related to the research and planning for affordable housing.”

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is now directed to evaluate affordable housing issues pursuant to the following schedule provided s. 420.0003:

- By December 15, 2023, and every 5 years thereafter, innovative affordable housing strategies implemented by other states, their effectiveness, and their potential for implementation in this state.
- By December 15, 2024, and every 5 years thereafter, affordable housing policies enacted by local governments, their effectiveness, and which policies constitute best practices for replication across this state. The report must include a review and evaluation of the extent to which interlocal cooperation is used, effective, or hampered.
- By December 15, 2025, and every 5 years thereafter, existing state-level housing rehabilitation, production, preservation, and finance programs to determine their consistency with relevant policies in this section and effectiveness in providing affordable housing. The report must also include an evaluation of the degree of coordination between housing programs of this state, and between state, federal, and local housing activities, and shall recommend improved program linkages when appropriate.

Each of these scheduled reports are required to be submitted to President of the Senate and the Speaker of the House of Representatives in accordance with this schedule.

Additional amendments to the state housing strategy through the Live Local Act include, but are not limited to:

- Encouraging local governments to enter into interlocal agreements to coordinate strategies to maximize the use of state and local funds for housing.
- Providing that state-funded developments should emphasize the use of developed land, urban infill, and the transformation of existing infrastructure in order to minimize sprawl,



separation of housing from employment, and effects of increased housing on ecological preservation areas.

- Providing that housing available to the state's workforce should prioritize proximity to employment and services.
- Requiring that public-private partnerships emphasize the production and preservation of affordable housing.
- Highlighting the necessity of preserving existing affordable housing stock through rehabilitation programs and expanded neighborhood revitalization efforts.
- A wide range of needs for safe, decent, and affordable housing must be addressed, with an emphasis on assisting the neediest persons.

2. New Sales Tax Refund for Affordable Housing Construction

Affordable housing developments subject to an agreement with FHFC to serve extremely-low-income, very-low-income, or low-income households are now eligible to receive a sales tax refund on building materials used for those affordable units that are income-restricted under a land use restriction agreement with the county in which the property is located. Refunds may not exceed the lesser of \$5,000 or 97.5% of the Florida sales or use tax paid on the cost of building materials for each eligible residential unit.

3. Online Postings of Expedited Permitting Procedures - s. 553.792, Florida Statutes

Local governments in Florida are now required to maintain on their website a policy containing procedures and expedited processing of building permits and development orders required by law to be expedited. This includes the requirement in the SHIP statute at s. 420.9071 that all local governments that receive SHIP funding must expedite the approvals of development orders and permits for affordable housing projects "to a greater degree than other projects."

4. Preemption of Temporary Rent Control Measures by Local Governments - s.125.0103/166.043, Florida Statutes

Prior to the passing of the Live Local Act, Florida law allowed local governments to enact temporary rent control measures upon a finding that such controls are "necessary and proper to eliminate an existing housing emergency which is so grave as to constitute a serious menace to the public" and after a vote via public referendum. The Act repealed the language at s. 125.0103 and 166.043 allowing local governments to enact temporary rent control measures.

Contact Us for More Information

In these beginning years of the "Live Local Era" in Florida, questions remain as to how the Act's provisions will function in practice. For more information on how these new Live Local Act policies are being implemented throughout the state, the Florida Housing Coalition will continue to be a resource. Whether you are with a local government wanting to learn more or a property owner or developer seeking to utilize these new housing tools, we at the Florida Housing Coalition can assist you with your needs. Contact Kody Glazer at glazer@flhousing.org, or Ryan McKinless at mckinless@flhousing.org for more information.