

Senate Bill 102, the Live Local Act, Codified in Chapter 2023-17

Article

Lowndes

05.22.2023

On March 29, 2023, Governor Ron DeSantis signed the Live Local Act into law, which shall take effect July 1, 2023. Under the Act, the local government must administratively approve multifamily and mixed-use residential projects and cannot require a rezoning, land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, or density described in the Act, subject to the following parameters:

Zoning and Development Standards

1. The property is zoned commercial, industrial, or mixed-use.
2. At least 40% of the multifamily residential units in the proposed development are affordable, as defined in Section 420.0004, Fla. Stat., for a period of at least 30 years;
 1. Affordable means that the monthly rents, including taxes, insurance and utilities, do not exceed 30% of area median income (AMI) for extremely-low-income persons (persons earning less than 30% of AMI), very-low-income persons (50% AMI), low-income persons (80% AMI), and moderate-income persons (120% AMI). There is no requirement to accommodate any one, or combination, of the above AMIs. Thus, all 40% of the affordable units could be provided at 120% AMI.
3. If the affordable housing is part of a mixed-use residential project, at least 65% of the project's total square footage must be residential;

Maximum Density

The local government may not restrict a qualifying project below the highest allowed density on any land within the local government where residential development is allowed.

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Height

The multifamily building height for a qualifying project may not be restricted below the highest currently allowed height for a commercial or residential development located in the Local government within one (1) mile of the property or three (3) stories, whichever is higher.

Satisfaction of Local Government Land Development Regulations

The project must satisfy the local government's land development regulations for multifamily developments, including regulations related to setbacks and parking and provided such regulations can be accommodated, and the proposed development must be administratively approved by the local government.

Parking

The local government must consider reducing the minimum parking requirements described in its land development regulations if the project is within one-half (1/2) mile of a major transit stop, as defined in its land development regulations, and the major transit stop is accessible from the proposed development.

20% Land Area Regulations

If a municipality designates less than 20% of its land area as commercial or industrial, then the multifamily project must be mixed-use residential.

Property Tax Exemptions

The Act also provides for potential exemptions from ad valorem taxation for properties that provide affordable housing units. There are two separate new or revised statutes providing for these property tax exemptions, as follows:

Section 196.1978(3), Florida Statutes

1. Must provide affordable housing
2. Project must be newly constructed (within 5 years of request for exemption) and have more than 70 units dedicated to low income families
3. Rental amounts must not exceed those specified by Florida Housing Finance Corporation (FHFC)/HUD (www.lowndes-law.com/fhfc-income-and-rent-limits)
4. Certification must be received from FHFC, with the following requirements transmitted to FHFC:
 1. Rental market study completed within previous 3 years, outlining fair market value rent for each unit identified for exemption, and comparable units within same geographic area and type
 2. List of units for exemption
 3. Rent amount received on each unit
 4. Sworn statement from applicant restricting property for no less than 3 years for affordable purposes (for those units)
5. When certification is received from FHFC, application to the County Property Appraiser must be made before March 1 of the given year

6. Moderate income units (120% AMI) receive 75% exemption on those units
7. Low/very-low/extremely-low income units receive total exemption (100%) on those units

Section 196.1979, Florida Statutes

1. County/municipality may adopt ordinance to exempt portions of projects from ad valorem taxation
2. Project must have 50 or more units, and 20% must be affordable
3. Income must be 60% or less of AMI within the MSA
4. Rent can't be more than the HUD/FHFC chart, or 90% of fair market value as determined by a rental market study
5. Project must have fewer than 3 code violations in prior 24 months, as well as no unremedied code violations and no fines
6. Exemption is for 75% of each unit if fewer than 100% of the project is affordable
7. If the project is 100% affordable, then up to 100% of assessed value is exempt
8. Exemption only applies for the millage rate of the municipality approving the ordinance
9. Ordinance is only good for 3 years, but can be adopted again to renew exemption