CHAPTER 2026-179

Committee Substitute for
Committee Substitute for House Bill No. 1389

An act relating to affordable housing; amending ss. 125.01055 and 166.04151, F.S.; requiring counties and municipalities, respectively, to authorize multifamily and mixed-use residential uses as allowable uses for specified property; providing requirements for certain proposed developments; specifying that certain proposed developments shall not exclude an assemblage of certain parcels; providing for the expiration of certain provisions; prohibiting counties and municipalities, respectively, from restricting the height of certain proposed developments through other dimensional means and from requiring certain setbacks or step-backs; revising the definitions of the terms "commercial use" and "industrial use"; revising applicability; providing retroactive applicability; authorizing applicants for certain proposed developments to notify the county or municipality, as applicable, by a specified date of intent to proceed under certain provisions; requiring counties and municipalities to allow certain applicants to submit revised applications, written requests, and notices of intent to account for changes made by the act; amending s. 196.1978, F.S.; creating a definition for "multifamily project"; revising a specified finding that a taxing authority must make in order to elect not to exempt certain property from certain ad valorem taxation; authorizing certain property owners in a multifamily project to apply for and continue to receive an exemption; amending s. 333.03, F.S.; providing an exception to the inapplicability of certain provisions; amending s. 760.22, F.S.; revising the definition of the term "person"; amending s. 760.26, F.S.; revising a prohibition on discriminatory practices in land use decisions and in permitting of development to include housing that is affordable; amending s. 760.35, F.S.; waiving the state's sovereign immunity for certain causes of action based upon housing discrimination; providing applicability; amending s. 420.615, F.S.; authorizing a local government to provide a density bonus incentive to landowners who make certain real property donations to assist in the provision of affordable housing for military families; requiring the Office of Program Policy Analysis and Government Accountability to evaluate the efficacy of using mezzanine finance and the potential of tiny homes for specified purposes; requiring the office to consult with certain entities; requiring the office to submit a certain report to the Legislature by a specified date; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (a), (d), (n), and (o) of subsection (7) of section 125.01055, Florida Statutes, are amended to read:

125.01055 Affordable housing.—

(7)(a)1. A county must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed use;, and in portions of any flexibly zoned area such as a planned unit development permitted for commercial, industrial, or mixed use; on property owned by a county, municipality, or school district; and on property that is more than 3 acres in size and owned by a religious institution, as defined in s. 170.201(2), which has contained a house of public worship for at least 10 years before the proposed development, regardless of the underlying zoning, if at least 40 percent of the residential units in a proposed multifamily development are rental units that, for a period of at least 30 years, are affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or regulation to the contrary, a county may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, transfer of density or development units, amendment to a development of regional impact, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection. For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes. The county may not require that more than 10 percent of the total square footage of such mixed-use residential projects be used for nonresidential purposes. A proposed development on property owned by a county, municipality, or school district must be within the geographic boundaries of the respective county, municipality, or school district, and the respective county, municipality, or school district must be a party to the application for the proposed development. A proposed development on property owned by a religious institution must be applied for by both the applicant and the religious institution, and the house of public worship must continue to operate on the property after the proposed development is constructed.

2. A multifamily or mixed-use residential development proposed under this section shall not exclude an assemblage of parcels under common ownership or control separated by no more than 15 feet of land and limited to public pedestrian access. This subparagraph expires July 1, 2030.

(d)1. A county may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed, or allowed on July 1, 2023, height for a commercial or residential building located in its jurisdiction within 1 mile of the proposed development or three stories, whichever is higher. A county may not restrict height below the height authorized under this paragraph through other dimensional means, such as establishing setbacks or stepbacks by height, or require setbacks or stepbacks that are more restrictive than the minimum permitted in the proposed development. For purposes of this paragraph, the term "highest currently allowed height" does not include the height of any building that met the requirements of this subsection or the height of any building that has received any bonus, variance, or other special exception for height provided in the county's land development regulations as an incentive for development.

2. If the proposed development is adjacent to, on two or more sides, a parcel zoned for single-family residential use which is within a single-family residential development with at least 25 contiguous single-family homes, the county may restrict 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, or allowed on July 1, 2023, height for the property provided in the county's land development regulations, or three stories, whichever is higher, not to exceed 10 stories. For the purposes of this paragraph, the term "adjacent to" means those properties sharing more than one point of a property line, but does not include properties separated by a public road.

3. If the proposed development is on a parcel with a contributing structure or building within a historic district which was listed in the National Register of Historic Places before January 1, 2000, or is on a parcel with a structure or building individually listed in the National Register of Historic Places, the county may restrict the height of the proposed development to the highest currently allowed, or allowed on July 1, 2023, height for a commercial or residential building located in its jurisdiction within three-fourths of a mile of the proposed development or three stories, whichever is higher. The term "highest currently allowed" in this paragraph includes the maximum height allowed for any building in a zoning district irrespective of any conditions.

(n) As used in this subsection, the term:

1. "Commercial use" means activities associated with the sale, rental, or distribution of products or the performance of services related thereto. The term includes, but is not limited to, such uses or activities as retail sales; wholesale sales; rentals of equipment, goods, or products; offices; restaurants; public lodging establishments as described in s. 509.242(1)(a); food service vendors; sports arenas; theaters; tourist attractions; and other for-profit business activities. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered commercial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. The term does not include home-based businesses or cottage food operations undertaken on residential property, public lodging establishments as described in s. 509.242(1)(c), or uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not commercial use, irrespective of how they are operated. Farms and farm operations as those terms are defined in s. 823.14(3) and uses associated therewith, including the packaging and sale of products raised on the premises, are not commercial use.

2. "Industrial use" means activities associated with the manufacture, assembly, processing, or storage of products or the performance of services related thereto. The term includes, but is not limited to, such uses or activities as automobile manufacturing or repair, boat manufacturing or

repair, junk yards, ~~meat packing facilities, citrus processing and packing facilities, produce processing and packing facilities,~~ electrical generating plants, water treatment plants, sewage treatment plants, and solid waste disposal sites. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered industrial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not industrial use, irrespective of how they are operated. Farms and farm operations as those terms are defined in s. 823.14(3) and uses associated therewith, including the packaging and sale of products raised on the premises, are not industrial use.

3. "Mixed use" means any use that combines multiple types of approved land uses from at least two of the residential use, commercial use, and industrial use categories. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not mixed use, irrespective of how they are operated.

4. "Planned unit development" has the same meaning as provided in s. 163.3202(5)(b).

(o) This subsection does not apply to:

1. Airport-impacted areas as provided in s. 333.03.

2. Property defined as recreational and commercial working waterfront in s. 342.201(2)(b) in any area zoned as industrial.

3. The Wekiva Study Area, as described in s. 369.316.

4. The Everglades Protection Area, as defined in s. 373.4592(2).

5. Areas subject to land development regulations, as defined in s. 163.3164, which are in existence before July 1, 2026, and are intended to retain the open character of land, including, but not limited to, open space districts, open space recreation districts, open use estate districts, open use rural districts, and park and open space districts.

6. Any area of critical state concern, as designated in ss. 380.055, 380.0551, 380.0552, 380.0553, and 380.0555.

7. Any portion of a property encumbered by a recorded conservation easement, as defined in s. 704.06(1).

Section 2. Paragraphs (a), (d), (n), and (o) of subsection (7) of section 166.04151, Florida Statutes, are amended to read:

166.04151 Affordable housing.—

(7)(a)1. A municipality must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed use;~~, and~~ in portions of any flexibly zoned area such as a planned unit development permitted for commercial, industrial, or mixed use; on property owned by a county, municipality, or school district; and on property that is more than 3 acres in size and owned by a religious institution, as defined in s. 170.201(2), which has contained a house of public worship for at least 10 years before the proposed development, regardless of the underlying zoning, if at least 40 percent of the residential units in a proposed multifamily development are rental units that, for a period of at least 30 years, are affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or regulation to the contrary, a municipality may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, transfer of density or development units, amendment to a development of regional impact, amendment to a municipal charter, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection. For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes. The municipality may not require that more than 10 percent of the total square footage of such mixed-use residential projects be used for nonresidential purposes. A proposed development on property owned by a county, municipality, or school district must be within the geographic boundaries of the respective county, municipality, or school district, and the respective county, municipality, or school district must be a party to the application for the proposed development. A proposed development on property owned by a religious institution must be applied for by both the applicant and the religious institution, and the house of public worship must continue to operate on the property after the proposed development is constructed.

2. A multifamily or mixed-use residential development proposed under this section shall not exclude an assemblage of parcels under common ownership or control separated by no more than 15 feet of land and limited to public pedestrian access. This subparagraph expires July 1, 2030.

(d)1. A municipality may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed, or allowed on July 1, 2023, height for a commercial or residential building located in its jurisdiction within 1 mile of the proposed development or three stories, whichever is higher. A municipality may not restrict height below the height authorized under this paragraph through other dimensional means, such as establishing setbacks or stepbacks by height, or require setbacks or stepbacks that are more restrictive than the minimum permitted in the proposed development. For purposes of this paragraph, the term "highest currently allowed height" does not include the height of any building that met the requirements of this subsection or the height of any building that has received any bonus, variance, or other special exception for

height provided in the municipality's land development regulations as an incentive for development.

2. If the proposed development 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, the municipality may restrict 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, or allowed on July 1, 2023, height for the property provided in the municipality's land development regulations, or three stories, whichever is higher, not to exceed 10 stories. For the purposes of this paragraph, the term "adjacent to" means those properties sharing more than one point of a property line, but does not include properties separated by a public road or body of water, including manmade lakes or ponds. For a proposed development located within a municipality within an area of critical state concern as designated by s. 380.0552 or chapter 28-36, Florida Administrative Code, the term "story" includes only the habitable space above the base flood elevation as designated by the Federal Emergency Management Agency in the most current Flood Insurance Rate Map. A story may not exceed 10 feet in height measured from finished floor to finished floor, including space for mechanical equipment. The highest story may not exceed 10 feet from finished floor to the top plate.

3. If the proposed development is on a parcel with a contributing structure or building within a historic district which was listed in the National Register of Historic Places before January 1, 2000, or is on a parcel with a structure or building individually listed in the National Register of Historic Places, the municipality may restrict the height of the proposed development to the highest currently allowed, or allowed on July 1, 2023, height for a commercial or residential building located in its jurisdiction within three-fourths of a mile of the proposed development or three stories, whichever is higher. The term "highest currently allowed" in this paragraph includes the maximum height allowed for any building in a zoning district irrespective of any conditions.

(n) As used in this subsection, the term:

1. "Commercial use" means activities associated with the sale, rental, or distribution of products or the performance of services related thereto. The term includes, but is not limited to, such uses or activities as retail sales; wholesale sales; rentals of equipment, goods, or products; offices; restaurants; public lodging establishments as described in s. 509.242(1)(a); food service vendors; sports arenas; theaters; tourist attractions; and other for-profit business activities. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered commercial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. The term does not include home-based businesses or cottage food operations undertaken on residential property, public lodging establishments as described in s. 509.242(1)(c), or

uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not commercial use, irrespective of how they are operated. Farms and farm operations as those terms are defined in s. 823.14(3) and uses associated therewith, including the packaging and sale of products raised on the premises, are not commercial use.

2. "Industrial use" means activities associated with the manufacture, assembly, processing, or storage of products or the performance of services related thereto. The term includes, but is not limited to, such uses or activities as automobile manufacturing or repair, boat manufacturing or repair, junk yards, ~~meat packing facilities, citrus processing and packing facilities, produce processing and packing facilities,~~ electrical generating plants, water treatment plants, sewage treatment plants, and solid waste disposal sites. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered industrial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not industrial use, irrespective of how they are operated. Farms and farm operations as those terms are defined in s. 823.14(3) and uses associated therewith, including the packaging and sale of products raised on the premises, are not industrial use.

3. "Mixed use" means any use that combines multiple types of approved land uses from at least two of the residential use, commercial use, and industrial use categories. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not mixed use, irrespective of how they are operated.

4. "Planned unit development" has the same meaning as provided in s. 163.3202(5)(b).

(o) This subsection does not apply to:

1. Airport-impacted areas as provided in s. 333.03.

2. Property defined as recreational and commercial working waterfront in s. 342.201(2)(b) in any area zoned as industrial.

3. The Wekiva Study Area, as described in s. 369.316.

4. The Everglades Protection Area, as defined in s. 373.4592(2).

5. Areas subject to land development regulations, as defined in s. 163.3164, which are in existence before July 1, 2026, and are intended to

retain the open character of land, including, but not limited to, open space districts, open space recreation districts, open use estate districts, open use rural districts, and park and open space districts.

6. Any area of critical state concern, as designated in ss. 380.055, 380.0551, 380.0552, 380.0553, and 380.0555.

7. Any portion of a property encumbered by a recorded conservation easement, as defined in s. 704.06(1).

Section 3. The amendments made by this act to ss. 125.01055(7)(n) and 166.04151(7)(n), Florida Statutes, are intended to be remedial and clarifying in nature and apply retroactively to January 1, 2024.

Section 4. An applicant for a proposed development authorized under s. 125.01055(7), Florida Statutes, or s. 166.04151(7), Florida Statutes, who submitted an application, a written request, or a notice of intent to use such provisions to the county or municipality and which application, written request, or notice of intent has been received by the county or municipality, as applicable, before July 1, 2026, may notify the county or municipality by July 1, 2026, of its intent to proceed under the provisions of s. 125.01055(7), Florida Statutes, or s. 166.04151(7), Florida Statutes, as they existed at the time of submittal. A county or municipality, as applicable, shall allow an applicant who submitted such an application, written request, or notice of intent before July 1, 2026, the opportunity to submit a revised application, written request, or notice of intent to account for the changes made by this act.

Section 5. Paragraphs (a) and (o) of subsection (3) of section 196.1978, Florida Statutes, are amended to read:

196.1978 Affordable housing property exemption.—

(3)(a) As used in this subsection, the term:

1. "Corporation" means the Florida Housing Finance Corporation.

2. "Multifamily project" shall include a development authorized under this subsection that is held under common ownership or control, approved and developed in compliance with the same site plan approval or development agreement or order, but shall exclude individual detached single-family residences, as well as parcels separated by more than 200 feet of land.

3.~~2.~~ "Newly constructed" means an improvement to real property which was substantially completed within 5 years before the date of an applicant's first submission of a request for a certification notice pursuant to this subsection.

4.~~3.~~ "Substantially completed" has the same meaning as in s. 192.042(1).

(o)1. Beginning with the 2025 tax roll, a taxing authority may elect, upon adoption of an ordinance or resolution approved by a two-thirds vote of the governing body, not to exempt property under sub-subparagraph (d)1.a. located in a county specified pursuant to subparagraph 2., subject to the conditions of this paragraph.

2. A taxing authority must make a finding in the ordinance or resolution that annual housing reports ~~the most recently~~ published by the Shimberg Center for Housing Studies ~~Annual Report, prepared~~ pursuant to s. 420.6075~~,~~ identify ~~identifies~~ that a county that is part of the jurisdiction of the taxing authority is within a metropolitan statistical area or region where, for each of the previous 3 years, the number of affordable and available units in the metropolitan statistical area or region is greater than the number of renter households in the metropolitan statistical area or region for the category entitled "0-120 percent AMI."

3. An election made pursuant to this paragraph may apply only to the ad valorem property tax levies imposed within a county specified pursuant to subparagraph 2. by the taxing authority making the election.

4. The ordinance or resolution must take effect on the January 1 immediately succeeding adoption and shall expire on the second January 1 after the January 1 in which the ordinance or resolution takes effect. The ordinance or resolution may be renewed prior to its expiration pursuant to this paragraph.

5. The taxing authority proposing to make an election under this paragraph must advertise the ordinance or resolution or renewal thereof pursuant to the requirements of s. 50.011(1) prior to adoption.

6. The taxing authority must provide to the property appraiser the adopted ordinance or resolution or renewal thereof by the effective date of the ordinance or resolution or renewal thereof.

7. Notwithstanding an ordinance or resolution or renewal thereof adopted pursuant to this paragraph, property in a multifamily project that received an exemption pursuant to sub-subparagraph (d)1.a. before the adoption or renewal of such ordinance or resolution may continue to receive such exemption for each subsequent consecutive year that the same owner or each successive owner applies for and is granted the exemption.

8. Notwithstanding an ordinance or a resolution or a renewal thereof adopted pursuant to this paragraph, the owner of a property in a multifamily project that was issued a building permit on or after July 1, 2026, for the development of the multifamily project within 4 years before the effective date of such ordinance or resolution may apply for and be granted the exemption under sub-subparagraph (d)1.a. after meeting the requirements of this subsection and may continue to receive such exemption for each subsequent consecutive year that the same owner or each successive owner applies for and is granted the exemption.

Section 6. The amendments made by this act to s. 196.1978, Florida Statutes, first apply to the 2027 property tax roll.

Section 7. Subsection (5) of section 333.03, Florida Statutes, is amended to read:

333.03 Requirement to adopt airport zoning regulations.—

(5) Sections 125.01055(7) and 166.04151(7) do not apply to any of the following, unless the respective application is approved by the governing body of the airport:

(a) A proposed development near a runway within one-quarter of a mile laterally from the runway edge and within an 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 of any existing airport runway or planned airport runway identified in the local government's airport master plan.

(b) A proposed development within any airport noise zone identified in the federal land use compatibility table or in a land-use zoning or airport noise regulation adopted by the local government.

(c) A proposed development that exceeds maximum height restrictions identified in the political subdivision's airport zoning regulation adopted pursuant to this section.

Section 8. Subsection (8) of section 760.22, Florida Statutes, is amended to read:

760.22 Definitions.—As used in ss. 760.20-760.37, the term:

(8) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, ~~and~~ fiduciaries, agencies, governmental entities, and other legal or commercial entities.

Section 9. Section 760.26, Florida Statutes, is amended to read:

760.26 Prohibited discrimination in land use decisions and in permitting of development.—It is unlawful to discriminate in land use decisions or in the permitting of development based on race, color, national origin, sex, disability, familial status, or religion, or, except as otherwise provided by law, based on the source of financing of a development or proposed development, including, but not limited to, financing of a development or on a proposed development for housing that is affordable as defined in s. 420.0004.

Section 10. Subsection (4) of section 760.35, Florida Statutes, is amended to read:

760.35 Civil actions and relief; administrative procedures.—

(4) If the court finds that a person has engaged in a discriminatory housing practice ~~has occurred~~, it must ~~shall~~ issue an order prohibiting the practice and providing affirmative relief from the effects of the practice, including injunctive and other equitable relief, actual and punitive damages, and reasonable attorney fees and costs. In accordance with s. 13, Art. X of the State Constitution, the state, for itself and its agencies or political subdivisions, waives sovereign immunity for a cause of action based upon the application of this section. Such waiver is limited only to actions brought under this section.

Section 11. Subsection (1) of section 420.615, Florida Statutes, is amended to read:

420.615 Affordable housing land donation density bonus incentives.—

(1) A local government may provide density bonus incentives pursuant to ~~the provisions of~~ this section to any landowner who voluntarily donates fee simple interest in real property to the local government for the purpose of assisting the local government in providing affordable housing, including housing that is affordable for military families receiving the basic allowance for housing. Donated real property must be determined by the local government to be appropriate for use as affordable housing and must be subject to deed restrictions to ensure that the property will be used for affordable housing.

Section 12. The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall evaluate the efficacy of using mezzanine finance, or second-position short-term debt, to stimulate the construction of owner-occupied housing that is affordable as defined in s. 420.0004(3), Florida Statutes, in this state. OPPAGA shall also evaluate the potential of tiny homes in meeting the need for affordable housing in this state. OPPAGA shall consult with the Florida Housing Finance Corporation and the Shimberg Center for Housing Studies at the University of Florida in conducting its evaluation. By December 31, 2027, OPPAGA shall submit a report of its findings to the President of the Senate and the Speaker of the House of Representatives. Such report must include recommendations for the structuring of a model mezzanine finance program.

Section 13. This act shall take effect July 1, 2026.

Approved by the Governor June 26, 2026.

Filed in Office Secretary of State June 26, 2026.