

Florida Legislature Proposes Changes to Live Local Act

Article
Lowndes
01.18.2024

Update: On May 16, 2024, Florida Governor Ron DeSantis signed Senate Bill 328 (SB 328) into law.

The 2024 Florida Legislature is contemplating revisions to The Live Local Act (“Act”) which took effect on July 1, 2023. These changes are being considered in Senate Bill No. 328 and Florida House Bill No. 1239.

Portions of the Act provide local zoning preemption to multifamily rental projects which incorporate affordable housing. See “Live Local Act Provides Affordable Housing Incentives, Bans Rent Control” for helpful background information on the Act.

Proposed Changes to Florida Statutes 125.01055 and 166.04151 include:

- Qualifying Properties
 - Currently: Properties qualifying for administrative approval under the Act include properties zoned commercial, industrial or mixed use.
 - Proposed: Limits qualifying properties to commercial and mixed use.
 - Currently: If a municipality designates less than 20% of its land area as commercial or industrial within its jurisdiction, then a proposed multifamily development must be mixed-use residential.
 - Proposed: The 20% requirement only applies to property zoned commercial.
- Addition of Floor Area Ratio
 - Proposed: Adds that local governments may not restrict the floor area ratio of proposed affordable housing projects below the highest currently allowed floor area ratio allowed under the local government’s regulations.
- Adjustment to Maximum Height
 - Currently: Local governments cannot restrict the height of a proposed development authorized under the Act below the highest currently allowed height for a commercial or residential building

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within one (1) mile or three (3) stories, whichever is higher.

- Proposed: The distance for comparable building heights is reduced to one-quarter (1/4) mile.
- Proposed: Adds that if the height of each building on the property adjacent to the proposed development is three (3) stories or less, the local government may restrict the height of proposed development to 135% of the tallest building on the property adjacent to the proposed development or three (3) stories, whichever is higher.
- Treatment as Conforming Use
 - Proposed: Developments authorized under the Act **must be treated as a conforming** use even after the administrative process expires and the 30-year required affordability period.
- Right to Cure
 - Proposed: If a development violates the 30-year affordability period, they would have a **right to cure the violation** before they are treated as a nonconforming use.
- Parking
 - Currently: Local governments must consider reducing parking requirements for a proposed development located within one-half (1/2) mile of a major transit stop.
 - Proposed: The distance for this consideration is reduced to one-quarter (1/4) mile.
 - Proposed: Local governments **must reduce parking requirements** for a proposed development authorized under the Act if located within one-half (1/2) mile of a major transportation hub that is accessible from the development by safe, pedestrian-friendly means.
 - Proposed: Local governments **must eliminate parking requirements** for a proposed mixed-use residential development authorized under the Act within an area recognized by the local government as a transit-oriented development or area as defined in the Act.
- Live Local Act Transparency
 - Proposed: Each local government shall maintain on its website a policy containing procedures and expectations for administrative approval under the Act.

At this time, these changes and others are merely proposed and have not been enacted into law. CS/SB 328 was introduced to the State Affairs Committee on January 13, 2024, and the first reading of Florida House Bill No. 1239 occurred on January 9, 2024. We will continue to provide updates as they become available on this pending legislation.

If you have additional questions on this proposed legislation or any real property rights, land use, zoning and business matters, please contact **Becky Wilson** (rebecca.wilson@lowndes-law.com) or **Tara Tedrow** (tara.tedrow@lowndes-law.com).