

Live Local Act: Proposed New Language Protects Early Applicants

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02.22.2024

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

The Florida Legislature continues to modify the proposed changes to the Live Local Act (Act) through the latest version of Senate Bill 328 (SB 328), passed on February 7, 2024. For background on the original Act, see “Live Local Act Provides Affordable Housing Incentives, Bans Rent Control.” For information on the initial proposed changes during this legislative session, see “Florida Legislature Proposes Changes to Live Local Act.”

The latest version of SB 328 adds important vesting language. This allows applicants who have already submitted Act applications, written requests, or notices of intent before the proposed changes’ effective date to proceed under the existing Act provisions. To do so, applicants may notify the local government by July 1, 2024, of their intent to utilize the Act’s provisions as they existed at the time of submittal. Additionally, SB 328 reinstates the language that properties zoned as industrial qualify for administrative approval under the Act.

Some of the other noteworthy additions include:

- Proposed Developments near Airports
 - The Act does not apply to proposed developments 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.
 - The Act does not apply to proposed developments near a runway more particularly described in proposed Sec. 333.03(5)(a).
 - The Act does not apply to a proposed development that exceeds maximum height restrictions identified in the local government’s airport zoning regulations.
- Floor Area Ratio

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- Local governments may not restrict the floor area ratio of a proposed development below 150% of the highest currently allowed floor area ratio in the jurisdiction where development is allowed under the local government's land development regulations.
- Height Restrictions
 - 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 local government may restrict the height of the proposed development to 150% of the tallest building on any property adjacent to the proposed development, the highest currently allowed height for the property provided in the local government's land development regulations, or 3 stories, whichever is higher.
- Parking Requirements
 - A local government must reduce parking requirements by at least 20% for a proposed development authorized under the Act if it is located within one-half mile of a major transportation hub **and** has available parking within 600 feet.
 - "Available parking" may consist of on-street parking, parking lots or parking garages available for use by residents of the proposed development.
- Bonuses, Variances, Conditional Uses, and other Special Exceptions
 - Local governments can still grant bonuses, variances, conditional uses, or other special exceptions for height, density, or floor area ratio in addition to the requirements of the Act.
 - Further, if the proposed development satisfies the local government's conditions to receive a bonus for density, height, or floor area ratio pursuant to an ordinance or regulation of the jurisdiction, and the condition does not conflict with the Act, then the bonus must be administratively approved by the local government.
- Exclusions
 - SB 328 also adds back that the Act does not apply to property defined as recreational and commercial working waterfront in 342.201(2)(b) in any area zoned as industrial.

Importantly, while these are the current proposed changes to the Act, nothing will become final until the end of the legislative session on March 8, 2024.

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).