

# Florida Passes House Bill 1389 Updating Live Local Act and More Housing Affordability Measures

**Anthony De Yurre & Nicholas Noto**

House Bill 1389 (“HB 1389”) was approved by the Florida Legislature today, March 13, 2026, and will become law on July 1, 2026, unless signed earlier or vetoed by the Governor. HB 1389, inclusive of updates to the “Live Local Act” zoning preemptions and tax exemption, as well as several other pro-affordable housing measures, again received near-unanimous support, with the House voting 98–4 and the Senate approving it unanimously 35–0.

HB 1389 is the latest iteration in four consecutive years of proactive affordable housing policy championed by the State of Florida. The bill amends critical portions of the zoning provisions (Fla. Stat. §§ 125.01055 for counties and 166.04151 for municipalities), tax provisions (Fla. Stat. § 196.1978) of the Live Local Act, and creates protections for affordable housing by making all affordable housing protected by the Florida Fair Housing Act (Fla. Stat. § 196.1978). The overarching goal remains increasing the supply of affordable housing statewide.

For reference, the following Live Local Act data, current as of March 9, 2026, was published by the Florida Housing Coalition (FHC). Note this data does not encompass all Live Local Act projects in Florida. This data only includes publicly available information tracked by FHC. Until November 1, 2026, local governments are not required to report all Live Local Act projects to the state. Also note, the original Live Local Act was passed less than 3 years ago and development timelines in Florida typically exceed 5 years.

- 55,000 units and 182 projects proposed statewide
- 6,316 units and 14 projects under construction
- 20 out of 67 counties with proposed projects
- The top 5 counties for Live Local Projects in order are Miami-Dade, Hillsborough, Broward, Palm Beach and Orange

## **HB 1389 BILL SUMMARY**

### **1. Lender requested comfort updates made to the tax exemption (s. 196.1978(3))**

Vesting for the tax exemption now occurs at building permit under Fla. Stat. § 196.1978(3). Owners that received a building permit on or after July 1, 2026, and within four years before the opt-out's effective date may still apply and continue receiving the exemption if they meet program requirements.

To “opt-out” of the tax exemption, a taxing authority must now under Fla. Stat. § 196.1978(3) show three consecutive years affordable housing surplus for affordable and available units for renter households at 0–120% AMI. This data is still based on the Shimberg Center “Annual Report” findings within the relevant MSA/region. Even then, properties already receiving the exemption may continue to receive the exemption with successive owners.

### **2. Tax exemption receives definition of “multifamily project” to include horizontal multifamily (s. 196.1978(3))**

A “multifamily project” is now defined in Fla. Stat. § 196.1978(3) to include a development under common ownership or control, approved and developed under the same site plan approval or development agreement/order, but excludes detached single-family residences and parcels separated by more than 200 feet of land. This new definition facilitates mixed-use projects with multiple parcels and “horizontal” multifamily such as garden-style and “built-to-rent” across multiple parcels that are within 200 feet.

### **3. Fair Housing Act (FHA) protections for all affordable housing (ch. 760, F.S.)**

This critical update now expands Florida Fair Housing Act (FFHA) protections to all affordable housing, including Live Local Act projects. This update is critical to prohibit increased regulation or dissimilar treatment of Live Local projects by local governments.

As stated in the bill, no discrimination shall be permitted based on financing or “affordable” status. This prohibits discrimination in land-use decisions or permitting based on source of financing or because a development is for housing that is affordable. Definition of “person” is also clarified to include agencies, governmental entities, and other legal or commercial entities.

Lastly, HB 1389 creates an express waiver of sovereign immunity for causes of action based on s. 760.35 claims.

**4. Live Local now applies to lands owned by a city, county, or school board (ss. 125.01055(7) & 166.04151(7))**

This expands beyond just Commercial, Industrial and Mixed-Use land. Naturally, the government entity must be co-applicant. This will pair well with Fla. Stat. § 196.19782, providing 100% tax exemption for 120% AMI multifamily on government ground leases.

**5. Live Local now applies to lands owned by religious institutions (ss. 125.01055(7) & 166.04151(7)).**

This expands beyond just Commercial, Industrial and Mixed-Use land. Live Local Act projects are now permitted on religious-institution property (as defined by s. 170.201(2)) larger than 3 acres that has contained a house of public worship for at least 10 years. Houses of worship must be a co-applicant and continue operating post-construction.

**6. Setbacks and stepbacks cannot limit height (ss. 125.01055(7) & 166.04151(7)).**

Local governments may not restrict height of a Live Local Act project 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.

**7. Clarifies Live Local includes assemblages separated by public access (ss. 125.01055(7) & 166.04151(7)).**

Clarification provided to facilitate the public policy of permitting pedestrian access, which many times facilitates access to Florida's natural resources such as waterfronts and beaches. As such, a Live Local proposal may include an assemblage of parcels under common ownership/control separated by ≤15 feet of land limited to public pedestrian access. This authority sunsets July 1, 2030.

**8. Modification to Airport Exemption Area (s. 333.03).**

The bill permits Live Local Act projects within specified airport-impacted areas (previously entirely prohibited) upon approval by the airport's governing body.

**9. Updates expanding local protections (ss. 125.01055(7) & 166.04151(7)).**

The bill refines commercial, industrial, mixed use, and PUD definitions, and clarifies that farms/farm operations are not commercial or industrial uses for Live Local purposes. Definitional changes are intended to be remedial and clarifying in nature and apply retroactively to January 1, 2024.

Excludes areas 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. This section's implications remain to be seen beyond the specified districts which are themselves not commonly found throughout the State of Florida.

Excludes areas of critical state concern.

Excludes portions of a property encumbered by a recorded conservation easement as defined in s. 704.06.

Should you want to further discuss how this and other legislative updates from the 2026 Florida legislative session may impact real estate development in Florida, please do not hesitate to contact the authors.

### Related Practices

- Real Estate >
- Land Use & Zoning >
- Homebuilders >
- Affordable & Workforce Housing >
- Real Estate Development & Construction >



**Anthony De Yurre**

Partner, Land Development & Government Relations



**Nicholas Noto**

Partner, Land Development & Government Relations

