

# Live Local Act 2024 vs 2023: Separating Fact from Fiction

Anthony De Yurre

Yesterday, the Florida Senate on the opening day of legislative session unanimously passed by a vote of 40 to 0, Senate Bill 328 also known as the “Live Local Act 2024”. SB328 is in response to a mix of reactions to the original Live Local Act (SB102), including inconsistent interpretations and local governments concerns regarding the intrusion of development into single family neighborhoods.

Procedurally, SB328 was passed with the Senate rolling to 3rd reading and voting on the bill by the unanimous vote. Yesterday, we also saw the matching companion measure House Bill 1239 advanced through the House State Affairs Committee. HB1239 has two more committee stops before it reaches the House floor. Once the bill is passed by both chambers it will go to the Governor to be signed into immediate law. While the Governor has veto authority over all bills, thus far Live Local Act 2024 has garnered near unanimous support from Florida legislators.

Below is an summary update of SB328 (2024) versus SB102 (2023). Bear in mind, this is an executive summary of the most important terms, but the key to any successful Live Local project is in the implementation. Equally important, is the detailed and exhaustive information collected from dozens of Florida Housing Corporation workshops and municipal workshops, including rent calculation methodology and zoning interpretations. To the extent you have additional questions regarding implementation of the SB328 zoning, tax or financing benefits, please do not hesitate reach out for more details regarding your particular development.

## **For Sale Market Rate Units Permitted (NEW)**

- “Rental” was removed from line 104 of the Live Local Act, opening the door to market rate for sale product. This is a significant change from SB102 permitting mixed-income projects with both condominiums and workforce rental product.

## **Maximum Floor Area Ratio (NEW)**

- SB328 includes a new preemption for floor area ratio (“FAR”), prohibiting the restriction of FAR below 150% of the “highest currently allowed floor area ratio”.
- Importantly, the phrase used in SB328 is “highest currently allowed floor area ratio”. The word “currently” is added throughout SB328 to insure that if maximum FAR is reduced in the future, Live Local Act projects will continue to receive the current maximum.

## **Maximum Unit Density (CLARIFIED)**

- SB328 restates SB102 preemption for unit density. Municipalities and counties may not restrict unit density below the municipality’s or county’s “highest currently allowed density”.
- Importantly, the phrase used in SB328 is “highest currently allowed density”. The word “currently” is added throughout SB328, to insure that if maximum density is reduced in the future, Live Local Act

projects will continue to receive the current maximum.

#### **Maximum Building Height to 1-mile (CLARIFIED)**

- SB328 originally proposed to reduce the building height comparator site range for 1 mile to 1/4 mile. After multiple amendments, the final version reinstated the height range to allow height from within a 1 mile, but also included protections for single-family neighborhoods as noted below.
- Importantly, the phrase used in SB328 is "highest currently allowed height". The word "currently" carried over from SB102 in order to insure that if maximum height is reduced in the future, Live Local Act projects will continue to get the benefits of the current maximum.

#### **Height Protections for Single-Family Neighborhoods (NEW)**

- SB328 added single-family protections to Live Local. If a property is adjacent to, on at least two sides, a single-family zoned residential parcel with at least 25 contiguous single-family homes, then the height cannot come from 1 mile, but instead will be restricted to the highest of the following: 150% of the tallest adjacent building, the tallest currently allowed height on the property, or 3 stories.
- "Adjacent to" means sharing more than one point of a property line, but does not include properties separated by a public road.

#### **Development Bonuses Administratively Approved (NEW)**

- SB328 added language stating the Live Local Act does not preclude a project from receiving local development bonuses for density, height or FAR.
- Importantly, SB328 specifically states that Live Local Act projects qualifying for such bonuses "must be approved administratively without further action".

#### **Tax Exemption Expanded and Retroactive (CLARIFIED)**

- In determining the value of the tax exemption, the local property appraiser must include the proportionate share of the residential common areas and the land. These tax exemption updates apply retroactively to January 1, 2024, thereby allowing pending 2024 Exemption applications to benefit from SB328.

#### **Transit Oriented Parking Preemptions (NEW)**

- Parking requirements eliminated for mixed-use residential Live Local Act projects within a transit oriented development ("TOD") or area.
- Parking requirements reduced by 20% for Live Local Act project within 1/2 mile of a major transportation hub and has available parking within 600 feet. Note, this available parking may not be required to compensate for the reduction in parking requirements. "Major transportation hub" means "any transit station, whether bus, train or light rail, which is served by public transit with a mix of other transportation options.

#### **Industrial Zoning Permitted (CLARIFIED)**

- SB328 originally proposed to remove industrial zoning as a qualifying zoning category. After multiple amendments, the final version reinstated the industrial zoning to allow Live Local Act projects on industrial zoned land.

#### **Live Local Act Not Allowed in Airport Flight Paths or Noise Contours (NEW)**

- Live Local Act zoning benefits are not permitted (a) in airport flight paths defined as areas extending 1/4 mile wide from each lateral side of the runway and extending 10,000 feet long from the end of the runway; (b) in airport noise zones; or, (c) for projects that exceed airport maximum height restrictions.

### **Administrative Approval Procedure Websites (NEW)**

- SB328 requires local governments to maintain a policy containing the procedure and expectations for the administrative approval of Live Local Act Projects on their websites.

### **Conformity and Grandfathering (NEW)**

- SB328 provides that Live Local Act projects must be treated as conforming uses even after the expiration of the affordability period (30 years) and provides the methodology to cure affordability violations. This section addresses lender concerns regarding long term conformity with local land development regulations.

### **Current SB102 Applications (NEW)**

- SB102 (original Live Local Act) applications prior to the effective date of SB328, may proceed under SB102. Alternatively, such SB102 applications may also be allowed opportunity to submit a revised application to account for changes made by SB328.

### **Hometown Hero Program Funding (NEW)**

- \$100 million in nonrecurring funds was appropriated to the State Housing Trust Fund for use by the Florida Housing Finance Corporation for the Florida Hometown Hero Program.

## **Related People**



**Anthony De Yurre**

**Partner, Land Development & Government Relations**