



The Local Government Attorney's Guide to Live Local

**Presentation for Broward County Bar Association's
Government Law Section**



AFFORDABLE HOUSING CATALYST PROGRAM

Sponsored by the
Florida Housing Finance Corporation



we make housing affordable™



Live Local – array of affordable housing policies

- **Funding and tax credits.** Up to **\$811 million** for affordable housing programs.
- **Tax incentives.** Three new property tax incentives and sales tax exemption for specified affordable housing developments.
- **Land use tools & role of local government.** Facilitating affordable housing in commercial, industrial, and mixed-use areas & more.
- **Publicly-owned land.** Encouraging local governments to adopt best practices.
- **State housing strategy.** State guidance on affordable housing policy.
- **Technical assistance.**



Funding in the Live Local Act

Program	Live Local Act
State Housing Initiatives Partnership (SHIP) Program	\$252m
State Apartment Incentive Loan (SAIL) program	\$109m for traditional SAIL \$150m for “Innovative Multifamily Development”
Hometown Hero Program	\$100m (from GR) GONE – as of 8/23/23
Inflation Response Program	\$100m GONE
Live Local Tax Donation Program	(up to \$100m)
Total funding	\$811,000,000



State Housing Initiatives Partnership (SHIP) program

- Administered by the Florida Housing Finance Corporation (FHFC)
- Deploys funds to 67 counties and 55 eligible municipalities
- Each SHIP jurisdiction develops a Local Housing Assistance Plan (LHAP) that governs its uses of the funding
- SHIP statute provides a series of “set-asides” that local governments must adhere to including:
 - At least 75% for construction-related activities
 - At least 65% for ownership; no more than 25% for rental housing
 - At least 30% for VLI households and at least 30% for LI households; remaining funds up to 140% of AMI
 - No more than 10% on admin expenses



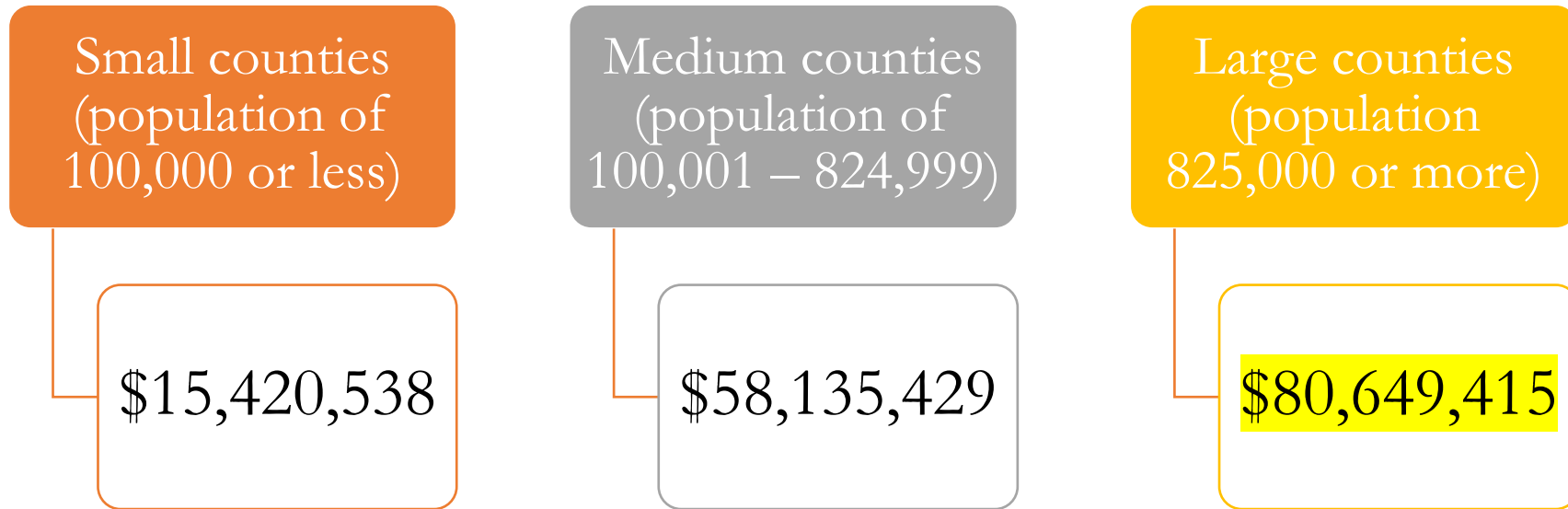
SHIP Allocations for FY 23-24

Total Broward County: \$22,590,588

Broward County \$3,998,536	Coconut Creek \$664,163	Coral Springs \$1,547,455	Davie \$1,226,669	Deerfield Beach \$1,003,022
Fort Lauderdale \$2,168,696	Hollywood \$1,777,879	Lauderhill \$858,442	Margate \$673,200	Miramar \$1,585,859
Pembroke Pines \$1,965,381	Plantation \$1,079,830	Pompano Beach \$1,305,736	Sunrise \$1,118,234	Tamarac \$833,593
		Weston \$783,893		



Estimated SAIL funding by “county category” for FY 23/24



$\$109,000,000$ from LLA + $\$46,245,383$ in program income =
 $\$154,205,383$ total in SAIL for FY 23/24



How the \$150 million/year for 10 years for “Innovative Multifamily Development” will be spent

70% for
projects
that:

Rehab/new construction

Addressing urban infill

Provide for mixed-use housing

Provide housing near military installations

30% for
projects
that:

Use or lease public lands

Address needs of adults aging out of foster care

Meet needs of elderly persons

Provide housing in areas of rural opportunity

Notes:

- FHFC will have the discretion to issue RFAs for this \$150m
- Local governments, developers, & advocates should follow the FHFC RFA process and start planning for local projects to support



Using publicly-owned land for affordable housing (Sections 4 & 7)

Background: **F.S. 125.379/166.0451** – Florida’s “surplus land” laws

- Requires every city and county, at least every three years, to identify publicly-owned lands that are “appropriate for use as affordable housing”
- Lands identified as “appropriate” for affordable housing are to be placed on an affordable housing inventory list
- Lands placed on the inventory list may be used for affordable housing purposes

Caveats:

- Publicly owned land does not have to be on this inventory list to be used for AH
- Goal of the statute is **transparency/accountability** with the spirit of using more publicly owned land for affordable housing



Using publicly-owned land for AH (Sections 4 & 7)

The Live Local Act amends the state’s “surplus land” laws to **newly apply to all dependent special districts**

- “Dependent special district” defined at s. 189.012
- Examples of dependent special districts:
 - Community redevelopment agencies (CRAs)
 - Port authorities
 - Neighborhood improvement districts
 - Housing authorities
 - Water and sewer districts
 - Special taxing districts
 - Development authorities
 - Water and sewer districts
 - Soil and water conservation districts



Using publicly-owned land for AH (Sections 4 & 7)

- **Requires** local governments to adopt an affordable housing inventory list by **Oct. 1, 2023**, and every 3 years thereafter (restarts the clock)
- **Requires** local governments to make the inventory list of properties appropriate for affordable housing publicly available on its website.
- **Encourages** local governments to adopt best practices for surplus land programs, including:
 - “a) Establishing **eligibility criteria** for the receipt or purchase of surplus land by developers;
 - b) Making the **process** for requesting surplus lands **publicly available**; and
 - c) **Ensuring long-term affordability** through ground leases by retaining the right of first refusal to purchase property . . . and by requiring reversion of property not used for affordable housing within a certain timeframe.”



Encouraging local governments to adopt best practices

- **Section 26** of the bill has several provisions encouraging local governments to adopt best practices. These provisions include:
 - “Local government shall provide incentives to encourage the private sector to be the primary delivery vehicle for the development of affordable housing.” (lines 1927-1929)
 - “Local governments should consider and implement innovative solutions . . . Innovative solutions include: (lines 1937-1957)
 - “Utilizing publicly held land to develop affordable housing . . .”
 - “Community-led planning that focuses on urban infill, flexible zoning, redevelopment of commercial property into mixed-use property . . .”
 - “Project features that maximize efficiency in land and resource use, such as high density, high rise, and mixed use.”
 - “Modern housing concepts such as manufactured homes, tiny homes, 3D-printed homes, and accessory dwelling units.”



New property tax exemptions in the Live Local Act

1. Local option affordable housing property tax exemption - s. 196.1979

2. Nonprofit land used for affordable housing with a 99-year ground lease - s. 196.1978(1)(b)

3. “Missing middle” property tax exemption – s. 196.1978(3)



1. Local option affordable housing property tax exemption

- **Section 9** of the LLA – creates new [s. 196.1979](#) of Fla. Stat.
- Authorizes local governments to provide property tax exemptions for specified affordable housing developments.
- **Eligible developments:**
 - Contain at least 50 or more units
 - At least 20% of the units must be affordable to households at or below 60% AMI
- Tax exemptions only apply to the affordable units
- FHC interpretation: Can apply to new and existing developments
- Two jurisdictions have adopted this option to date: Jacksonville and St. Petersburg



1. Local option affordable housing property tax exemption (cont.)

- Property tax exemptions allowed are based on % of affordability
 - <100% of the units are affordable = up to 75% property tax exemption
 - 100% of the units are affordable = up to 100% property tax exemption
- S. 196.1979(5): Ordinance adopted under this section “**must expire before the fourth January 1 after adoption**; however, the [city or county commission] may adopt a new ordinance to renew the exemption.” (lines 962-973)
- Local gov’t have the option to provide exemption to units that serve up to 60% AMI or just up to 30% AMI



Process for adoption of local option property tax exemption

S. 196.1979(3) – contains elements of an ordinance adopting the exemption (lines 892-948). The ordinance must (some but not all of the requirements):

- (a): Be adopted by city or county commission under the procedures for adoption of a nonemergency ordinance
- (b): Designate the local entity which must “develop, receive, and review applications for certification and develop notices of determination of eligibility”
- (c): Require property owner to apply to the local entity on a form provided by the responsible local entity.
- (d): Require the local entity to verify and certified property meets the requirements of the exemption and to forward the certification to the property appraiser.
- (f): Require the property owner to submit an application for the exemption to the county property appraiser.



Process for adoption of local option property tax exemption

S. 196.1979(3) – contains elements of an ordinance adopting the incentive (lines 892-948). The ordinance must:

- (g): Specify that the exemption applies “only to the taxes levied by the unit of government granting the exemption”
- (h): Specify the property may not receive an exemption after expiration or repeal of the ordinance
- (i): Identify the percentage of the assessed value which is exempted
- (l): Require the local government to post to its website a list of certified properties



2. Nonprofit land used for affordable housing w/99-year ground lease exemption

- New s. 196.1978(1)(b)
- Property tax exemption applies to **land** owned entirely by a nonprofit that:
 - 1) is leased for a minimum of 99 years
 - 2) is predominately used to provide affordable housing to households up to 120% AMI
- Land is considered “predominately used” for affordable housing if the square footage of the improvements on the land for affordable housing is greater than 50% of all the square footage of the improvements
- Tax exemption is for the **land** only – not the improvements



3. “Missing middle” property tax exemption

- New s. 196.1978(3)
- Provides a property tax exemption to “newly constructed” multifamily developments that have more than 70 affordable units for households up to 120% AMI
 - “Newly constructed” means “an improvement to real property which was substantially completed within 5 years of the date of the applicant’s first submission of a request for [the exemption] (lines 691-695)
- Tax exemption only applies to the **affordable** units
- Tiered property tax exemptions:
 - Units affordable to 80-120% AMI = 75% property tax exemption
 - Units affordable to <80% AMI = 100% property tax exemption



“Missing middle” property tax exemption (cont.)

- (3)(k): Units subject to an agreement with FHFC to provide housing to persons up to 80% AMI are not eligible for this exemption
- (3)(l): Property receiving the local option property tax exemption in s. 196.1979 are not eligible for this exemption
- (3)(m): Required rental market study standards
- Exemption is repealed in 2059



Process to apply for “missing middle” exemption

1. Property owner must apply for a “certification notice” from the Florida Housing Finance Corporation (FHFC).
2. FHFC reviews request for certification and approves or denies the request. If approved, FHFC sends the certification notice to the property owner and local property appraiser.
3. Property owner must submit an application on a form proscribed by the Department of Revenue by March 1 to the local property appraiser with the certification notice granted by FHFC.



Effect of the “Missing middle” property tax exemption

- Effectiveness will depend on relationship between \$ for rents a market-rate developer could charge vs. property tax savings if rented to households at or below 120% AMI
- Will work differently in different markets
- May impact local willingness to devote local dollars to affordable housing initiatives



Summary of Property tax incentives in the Live Local Act

1. Local option affordable housing property tax exemption

- Grants local governments the **option** to enact an ordinance providing property tax exemptions to certain affordable housing developments
- Eligible developments: 50 or more units that set aside at least 20% of the units as affordable to households at or below 60% AMI
- **Jacksonville, FL** – first jurisdiction to enact this exemption

2. Nonprofit land used for affordable housing with a 99-year ground lease

- Provides a property tax exemption on the value of land owned by a nonprofit and leased for a period of 99 years to predominately provide affordable housing to households at or below 120% AMI

3. “Missing middle” property tax exemption

- Provides a property tax exemption to developments that have **more than 70 affordable units** to households at or below 120% AMI
- Units affordable to households 80-120% AMI = 75% property tax exemption; Units for <80% AMI = 100% property tax exemption
- Two-step application process: 1) FHFC; 2) County Property Appraiser
- FHFC launched initial application process on October 2nd.

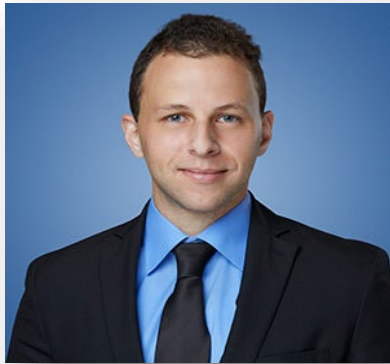


Other policies in the Live Local Act

- Requires local governments to post expediting permitting procedures online
- Precludes state funding for housing to local governments whose comprehensive plans have been found not in compliance with Chapter 163
- Provides sales tax relief for building materials for certain affordable housing developments
- Addresses using nonconservation state owned land for affordable housing
- Expands Florida Job Growth Grant Fund to support public infrastructure projects to facilitate the production of affordable housing
- Directs OPPAGA to produce policy reports on affordable housing issues
- Amends FHFC board makeup
- Authorizes FHFC to contract with the Catalyst Program to provide training to local governments specifically on using publicly-owned land for affordable housing



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