By Senator Calatayud

38-01638C-24 2024328__

A bill to be entitled

An act relating to development; amending ss. 125.01055 and 166.04151, F.S.; deleting a provision related to the authorization of multifamily and mixed-use residential development uses in any area zoned for industrial use; prohibiting counties and municipalities, respectively, from restricting the floor area ratio of certain proposed developments under certain circumstances; providing that the density or floor area ratio of certain developments, bonuses, variances, or other special exceptions are not included in the calculation of the currently allowed density or floor area ratio by counties and municipalities, respectively; revising prohibitions relating to counties' and municipalities' restrictions of the height of certain proposed developments, respectively; authorizing counties and municipalities, respectively, to restrict the height of proposed developments under certain circumstances; providing that certain factors may not be taken into account in the calculation of the currently allowed height; prohibiting the administrative approval by counties and municipalities, respectively, of a proposed development within a specified proximity to a military installation; making technical changes; revising applicability; authorizing specified developments to be treated as a conforming use; amending s. 196.1978, F.S.; revising the definition of the term "newly constructed"; defining the term "substantial rehabilitation"; revising conditions for when multifamily projects are considered property used for a charitable purpose and are eligible to receive an ad valorem property tax exemption; making technical changes; requiring property appraisers to make certain exemptions from ad valorem property taxes; providing the method for determining the value of a unit for certain purposes; requiring property appraisers to review certain applications and make certain determinations; authorizing property appraisers to request and review additional information; authorizing property appraisers to grant exemptions only under certain conditions; revising requirements for property owners seeking a certification notice from the Florida Housing Finance Corporation; providing that a certain determination by the corporation does not constitute an exemption; specifying requirements for a market value analysis; conforming provisions to changes made by the act; providing for retroactive application; amending s. 333.03, F.S.; excluding certain proposed developments from specified airport zoning provisions; amending s. 420.5096, F.S.; making technical changes; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (a) through (d), (f), and (h) of subsection (7) of section 125.01055, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

125.01055 Affordable housing.—

(7)(a) A county must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial~~,~~ ~~industrial,~~ or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development are, for a period of at least 30 years, affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or regulation to the contrary, a county may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection. For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes.

(b) A county may not restrict the density or floor area ratio of a proposed development authorized under this subsection below the highest currently allowed density or floor area ratio on any unincorporated land in the county where residential development is allowed under the county's land development regulations. The currently allowed density or floor area ratio does not include the density or floor area ratio of any development that meets the requirements of this subsection or any bonuses, variances, or other special exceptions for density or floor area ratio provided in the county's land development regulations as incentives for development.

(c) A county may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed height for a commercial or residential building ~~development~~ located in its jurisdiction within one-quarter ~~1~~ mile of the proposed development or 3 stories, whichever is higher. If the height of each building on property adjacent to the proposed development is 3 stories or less, the county may restrict the height of the proposed development to 125 percent of the tallest building on property adjacent to the proposed development or 3 stories, whichever is higher. The currently allowed height does not include the height of any development that meets the requirements of this subsection or any bonuses, variances, or other special exceptions for height provided in the county's land development regulations as incentives for development.

(d) A proposed development authorized under this subsection must be administratively approved and no further action by the board of county commissioners is required if the development satisfies the county's land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height, and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements. A proposed development located within one-quarter mile of a military installation identified in s. 163.3175(2) may not be administratively approved.

(f) For proposed multifamily developments in an unincorporated area zoned for commercial ~~or industrial~~ use which is within the boundaries of a multicounty independent special district that was created to provide municipal services and is not authorized to levy ad valorem taxes, and less than 20 percent of the land area within such district is designated for commercial ~~or industrial~~ use, a county must authorize, as provided in this subsection, such development only if the development is mixed-use residential.

(h) This subsection does not apply to airport-impacted areas as provided in s. 333.03 ~~property defined as recreational and commercial working waterfront in s. 342.201(2)(b) in any area zoned as industrial~~.

(8) Any development authorized under paragraph (7)(a) must be treated as a conforming use even after the expiration of subsection (7) and the development's affordability period as provided in paragraph (7)(a), notwithstanding the county's comprehensive plan, future land use designation, or zoning. If at any point during the development's affordability period the development violates the affordability period requirement provided in paragraph (7)(a), the development must be allowed a reasonable time to cure such violation. If the violation is not cured within a reasonable time, the development must be treated as a nonconforming use.

Section 2. Paragraphs (a) through (d), (f), and (h) of subsection (7) of section 166.04151, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

166.04151 Affordable housing.—

(7)(a) A municipality must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial~~, industrial,~~ or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development are, for a period of at least 30 years, affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or regulation to the contrary, a municipality may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection. For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes.

(b) A municipality may not restrict the density or floor area ratio of a proposed development authorized under this subsection below the highest currently allowed density or floor area ratio on any land in the municipality where residential development is allowed under the municipality's land development regulations. The currently allowed density or floor area ratio does not include the density or floor area ratio of any development that meets the requirements of this subsection or any bonuses, variances, or other special exceptions for density or floor area ratio provided in the municipality's land development regulations as incentives for development.

(c) A municipality may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed height for a commercial or residential building ~~development~~ located in its jurisdiction within one-quarter mile ~~1 mile~~ of the proposed development or 3 stories, whichever is higher. If the height of each building on property adjacent to the proposed development is 3 stories or less, the municipality may restrict the height to 125 percent of the tallest building on property adjacent to the proposed development or 3 stories, whichever is higher. The currently allowed height does not include the height of any development that meets the requirements of this subsection or any bonuses, variances, or other special exceptions for height provided in the municipality's land development regulations as incentives for development.

(d) A proposed development authorized under this subsection must be administratively approved and no further action by the governing body of the municipality is required if the development satisfies the municipality's land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height, and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements. A proposed development located within one-quarter mile of a military installation identified in s. 163.3175(2) may not be administratively approved.

(f) A municipality that designates less than 20 percent of the land area within its jurisdiction for commercial ~~or industrial~~ use must authorize a proposed multifamily development as provided in this subsection in areas zoned for commercial ~~or industrial~~ use only if the proposed multifamily development is mixed-use residential.

(h) This subsection does not apply to airport-impacted areas as provided in s. 333.03 ~~property defined as recreational and commercial working waterfront in s. 342.201(2)(b) in any area zoned as industrial~~.

(8) Any development authorized under paragraph (7)(a) must be treated as a conforming use even after the expiration of

subsection (7) and the development's affordability period as provided in paragraph (7)(a), notwithstanding the municipality's comprehensive plan, future land use designation, or zoning. If at any point during the development's affordability period the development violates the affordability period requirement provided in paragraph (7)(a), the development must be allowed a reasonable time to cure such violation. If the violation is not cured within a reasonable time, the development must be treated as a nonconforming use.

Section 3. Subsection (3) of section 196.1978, Florida Statutes, is amended to read:

196.1978 Affordable housing property exemption.—

(3)(a) As used in this subsection, the term:

1. "Corporation" means the Florida Housing Finance Corporation.

2. "Newly constructed" means an improvement or the substantial rehabilitation of an existing improvement to real property which was substantially completed within 5 years before the date of an applicant's first submission of a request for a certification notice ~~or an application for an exemption~~ pursuant to this subsection ~~section, whichever is earlier~~.

3. "Substantially completed" has the same meaning as in s. 192.042(1).

4. "Substantial rehabilitation" means the repair or restoration of a unit which increases the market value of such unit by at least 40 percent.

(b) Notwithstanding ss. 196.195 and 196.196, portions of property in a multifamily project are considered property used for a charitable purpose and are eligible to receive an ad valorem property tax exemption if such portions meet all of the following conditions:

1. Provide affordable housing to natural persons or families meeting the income limitations provided in paragraph (d).~~;~~

2.a. Are within a newly constructed multifamily project that contains more than 70 units dedicated to housing natural persons or families meeting the income limitations provided in paragraph (d); or

b. Are within a newly constructed multifamily project in an area of critical state concern, as designated by s. 380.0552 or chapter 28-36, Florida Administrative Code, which contains more than 10 units dedicated to housing natural persons or families meeting the income limitations provided in paragraph (d). ~~and~~

3. Are rented for an amount that does not exceed the amount as specified by the most recent multifamily rental programs income and rent limit chart posted by the corporation and derived from the Multifamily Tax Subsidy Projects Income Limits published by the United States Department of Housing and Urban Development or 90 percent of the fair market value rent as determined by a rental market study meeting the requirements of paragraph (l) ~~(m)~~, whichever is less.

(c) If a unit that in the previous year received ~~qualified for~~ the exemption under this subsection and was occupied by a tenant is vacant on January 1, the vacant unit is eligible for the exemption if the use of the unit is restricted to providing affordable housing that would otherwise meet the requirements of this subsection and a reasonable effort is made to lease the unit to eligible persons or families.

(d)1. The property appraiser shall exempt:

a. Seventy-five percent of the assessed value of the units in multifamily projects that meet the requirements of this subsection and are ~~Qualified property~~ used to house natural persons or families whose annual household income is greater than 80 percent but not more than 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area or, if not within a metropolitan statistical area, within the county in which the person or family resides; and~~, must receive an ad valorem property tax exemption of 75 percent of the assessed value.~~

b.~~2.~~ From ad valorem property taxes the units in multifamily projects that meet the requirements of this subsection and are ~~Qualified property~~ used to house natural persons or families whose annual household income does not exceed 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area or, if not within a metropolitan statistical area, within the county in which the person or family resides~~, is exempt from ad valorem property taxes~~.

2. When determining the value of a unit for purposes of applying an exemption pursuant to this paragraph, the property appraiser must include in such valuation the proportionate share of the residential common areas, including the land, fairly attributable to such unit.

(e) To be eligible to receive an exemption under this subsection, a property owner must submit an application on a form prescribed by the department by March 1 for the exemption, accompanied by a certification notice from the corporation to the property appraiser. The property appraiser shall review the application and determine whether the applicant meets all of the requirements of this subsection and is entitled to an exemption. A property appraiser may request and review additional information necessary to make such determination. A property appraiser may grant an exemption only for a property for which the corporation has issued a certification notice and which the property appraiser determines is entitled to an exemption.

(f) To receive a certification notice, a property owner must submit a request to the corporation ~~for certification~~ on a form provided by the corporation which includes all of the following:

1. The most recently completed rental market study meeting the requirements of paragraph (l) ~~(m)~~.

2. A list of the units for which the property owner seeks an exemption.

3. The rent amount received by the property owner for each unit for which the property owner seeks an exemption. If a unit is vacant and qualifies for an exemption under paragraph (c), the property owner must provide evidence of the published rent amount for each vacant unit.

4. If the units for which the property owner seeks an exemption have been substantially rehabilitated but have not been certified previously by the corporation pursuant to paragraph (g), a market value analysis meeting the requirements of paragraph (m) demonstrating that the units meet the definition of substantial rehabilitation in subparagraph (a)4. After receiving an initial certification notice for substantially rehabilitated units, a property owner is not

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

required to submit a new market value analysis when requesting certification notices for subsequent years.

5. A sworn statement, under penalty of perjury, from the applicant restricting the property for a period of not less than 3 years to housing persons or families who meet the income limitations under this subsection.

(g) The corporation shall review the request for a certification notice and certify whether a property ~~that~~ meets the ~~eligibility~~ criteria of paragraphs (b) and (c) ~~this subsection~~. A determination by the corporation regarding a request for a certification notice does not constitute a grant of an exemption pursuant to this subsection or final agency action pursuant to chapter 120.

1. If the corporation determines that the property meets the ~~eligibility~~ criteria ~~for an exemption under this subsection~~, the corporation must send a certification notice to the property owner and the property appraiser.

2. If the corporation determines that the property does not meet the ~~eligibility~~ criteria, the corporation must notify the property owner and include the reasons for such determination.

(h) The corporation shall post on its website the deadline to submit a request for a certification notice. The deadline must allow adequate time for a property owner to submit a timely application for exemption to the property appraiser.

(i) ~~The property appraiser shall review the application and determine if the applicant is entitled to an exemption. A property appraiser may grant an exemption only for a property for which the corporation has issued a certification notice.~~

~~(j)~~ If the property appraiser determines that for any year during the immediately previous 10 years a person who was not entitled to an exemption under this subsection was granted such an exemption, the property appraiser must serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person in the county, and that property must be identified in the notice of tax lien. Any property owned by the taxpayer and situated in this state is subject to the taxes exempted by the improper exemption, plus a penalty of 50 percent of the unpaid taxes for each year and interest at a rate of 15 percent per annum. If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the property owner improperly receiving the exemption may not be assessed a penalty or interest.

(j) ~~(k)~~ Units subject to an agreement with the corporation pursuant to chapter 420 recorded in the official records of the county in which the property is located to provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004 are not eligible for this exemption.

(k) ~~(l)~~ Property receiving an exemption pursuant to s. 196.1979 is not eligible for this exemption.

(l) ~~(m)~~ A rental market study submitted as required by subparagraph (f)1. ~~paragraph (f)~~ must identify the fair market value rent of each unit for which a property owner seeks an exemption. Only a certified general appraiser as defined in s. 475.611 may issue a rental market study. The certified general appraiser must be independent of the property owner who requests the rental market study. In preparing the rental market study, a certified general appraiser shall comply with the standards of professional practice pursuant to part II of chapter 475 and use comparable property within the same geographic area and of the same type as the property for which the exemption is sought. A rental market study must have been completed within 3 years before submission of the application.

(m) A market value analysis submitted as required by subparagraph (f)4. must identify the change in the market value of the unit attributable to the rehabilitation of the unit, expressed as a percentage of the market value before the rehabilitation, for each unit that has undergone rehabilitation. Only a certified general appraiser as defined in s. 475.611 may issue a market value analysis. The certified general appraiser must be independent of the property owner who requests the market value analysis. In preparing the market value analysis, a certified general appraiser shall comply with the standards of professional practice pursuant to part II of chapter 475 and use comparable property within the same geographic area and of the same type as the property for which the exemption is sought.

(n) The corporation may adopt rules to implement this section.

(o) This subsection first applies to the 2024 tax roll and is repealed December 31, 2059.

Section 4. The amendments made by this act to s. 196.1978, Florida Statutes, are intended to be remedial and clarifying in nature and apply retroactively to January 1, 2024.

Section 5. Present subsection (5) of section 333.03, Florida Statutes, is redesignated as subsection (6), and a new subsection (5) is added to that section, to read:

333.03 Requirement to adopt airport zoning regulations.—

(5) Sections 125.01055(7) and 166.04151(7) do not apply to any of the following:

(a) A proposed development within 10,000 feet of the nearest point of any existing airport runway or planned airport runway identified in the local government's airport master plan.

(b) A proposed development within any airport noise zone identified in the federal land use compatibility table.

(c) A proposed development that exceeds maximum height restrictions identified in the political subdivision's airport zoning regulation adopted pursuant to this section.

Section 6. Subsection (3) of section 420.5096, Florida Statutes, is amended to read:

420.5096 Florida Hometown Hero Program.—

(3) For loans made available pursuant to s. 420.507(23)(a)1. or 2., the corporation may underwrite and make those mortgage loans through the program to persons or families who have household incomes that do not exceed 150 percent of the state median income or local median income, whichever is greater. A borrower must be seeking to purchase a home as a primary residence; must be a first-time homebuyer and a Florida resident; and must be employed full-time by a Florida-based employer. The borrower must provide documentation of full-time employment~~,~~ or full-time status for self-employed individuals~~, of 35 hours or more per week~~. The requirement to be a first-time homebuyer does not apply to a borrower who is an active duty servicemember of a branch of the armed forces or the Florida National Guard, as defined in s. 250.01, or a veteran.

Section 7. For the 2024-2025 fiscal year, from the funds received and deposited into the General Revenue Fund from the state's allocation from the federal Coronavirus State Fiscal Recovery Fund created under the American Rescue Plan Act of 2021, Pub. L. No. 117-2, the sum of $100 million in nonrecurring funds is appropriated to the State Housing Trust Fund for use by the Florida Housing Finance Corporation to implement the Florida Hometown Hero Program established in s. 420.5096, Florida Statutes.

Section 8. This act shall take effect upon becoming a law.