

## Florida Senate and House Approve Amendment to Live Local Act

### 3.5.24

In 2023, the State of Florida adopted the Live Local Act (the “Act”), which seeks to incentivize the development of affordable housing by the private sector primarily by preempting local zoning laws and providing tax incentives. During the current 2024 legislative session, the Florida Senate and House of Representatives adopted a bill amending the Act. The bill, which is awaiting the Governor’s signature, explicitly preempts local control of floor area ratio (“FAR”) and provides greater parking benefits for affordable projects qualifying under the Act.

One of the central goals of the Act is to spur greater development of affordable housing by the private sector by allowing the construction of larger multi-family structures if they meet the requirements of the Act. Under the original version of the Act approved last year, local zoning restrictions relating to height, density and use are preempted for qualifying projects. However, the lack of any explicit mention of FAR preemption in the Act led certain jurisdictions to claim that they could use existing FAR limitations in their codes to block or severely curtail Live Local projects. (FAR is generally defined as the ratio of built square footage to the size of a lot.) The subject amendment addresses this issue by providing that qualifying projects can be built up to 150% of the highest FAR in that jurisdiction, regardless of any local law to the contrary.

The new bill also substantially expands the parking benefits under the Act. Under the original version of the Act, a county or municipality was required to “consider” parking reductions for a Live Local project located within one-half mile of a major transportation hub. Under the new bill, the parking reduction is no longer within the discretion of the county or municipality. The applicable local government must provide a 20% parking reduction for projects that are located within (i) one-half mile of a major transportation hub and (ii) 600 feet of a public parking lot or garage. Moreover, for mixed-use residential projects under the Act that are located within transit-oriented developments or areas, the parking requirements are completely eliminated.

On the issue of height preemption under the Act, the bill creates an exception for projects that abut certain areas zoned for single family homes. Such projects are subject to reduced maximum height.

Finally, although the amendment does not make material changes to the real estate tax exemption provisions of the Act, it is worth noting that the Florida Housing Finance Corporation (“FHFC”) is allowing some flexibility in the interpretation of what constitutes a “newly constructed” improvement under the Act. The FHFC is interpreting the term “newly constructed” to include not only newly constructed apartments but also units that have been the subject of renovations, as long as those

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renovations were completed within 5 years of applying for the tax exemption.

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