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PROPERTY TAXATION AND THE LAW:
CHALLENGES AND SOLUTIONS



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**AFFORDABLE HOUSING INCENTIVES
PROPERTY TAX & BEYOND**



Florida enacted the 2023 “Live Local Act,” to increase the availability of housing to people with extremely-low to moderate income by providing land use, zoning and tax incentives for development of affordable housing

- Florida property owners/developers may be eligible for property tax exemptions for “newly constructed” multi-family projects containing more than 70 affordable housing units
- Florida property appraisers have different opinions as to what qualifies as newly constructed:
 - Brand new, ground-up construction only?
 - Renovation, rehabilitation or conversion?
- This presentation will explore different statutory interpretations and is intended to invite discussion about affordable housing property tax exemptions both in Florida and in other states.

PRESENTATION OVERVIEW

- Affordable Housing Incentives Generally
- Florida's Live Local Act
 - Senate Bill 102
 - Fla. Stat. § 196.1978
- Affordable Housing Exemptions in Other States
- Roundtable Discussion Points

Affordable Housing Incentives Generally

- **Financial incentives**
 - **Tax credits**
 - **Tax exemptions**
 - **Subsidies**
 - **Reduced interest rates for developers**



Affordable Housing Incentives Generally

- **Regulatory incentives**
 - **Zoning variances**
 - **Density bonuses**
 - **Streamlined approval processes**



Affordable Housing Incentives Generally

- **Federal—Low Income Housing Tax Credit (LIHTC)**
- **State—Ad valorem exemptions and assessment reductions**
- **Local—Enterprise agreements with local housing authorities**



Florida's Live Local Act

Senate Bill 102

- **Deleting the authority of local governments** to adopt or maintain laws, ordinances, rules, or other measures that would have the effect of imposing controls on rents
- **Providing for certain ad valorem taxation exemptions**
- **Authorizing local governments to adopt ordinances to provide an ad valorem tax exemption for portions of property used to provide affordable housing meeting certain requirements**
- **Suspending, for a specified period, the General Revenue Fund service charge on documentary stamp tax collections**
- **Authorizing the Governor to approve state or local public infrastructure projects to facilitate the development or construction of affordable housing, etc.**
- **Appropriation: \$711,000,000**

Local property tax exemption ordinances... Example: City of Jacksonville

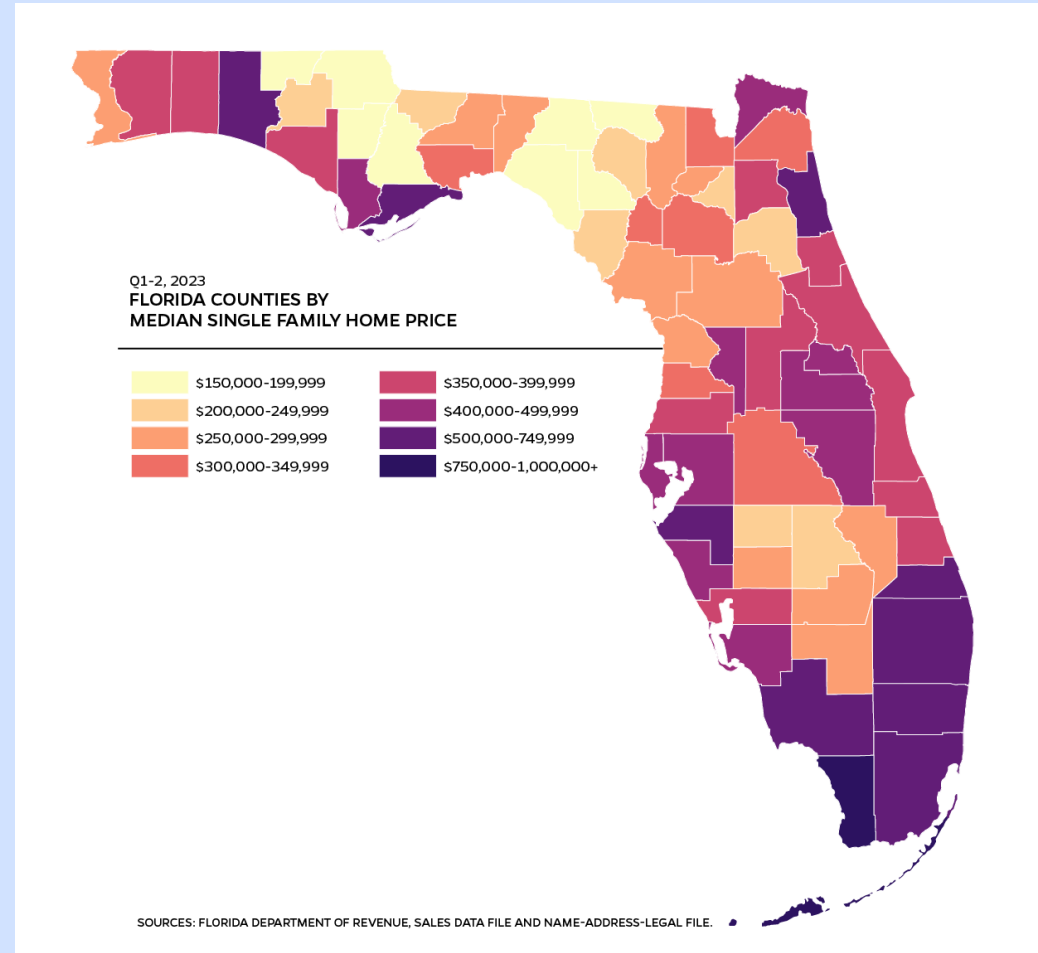
- Annual household income greater than 30 percent but not more than 60 percent of the median annual adjusted gross income for households within Duval County; or does not exceed 30 percent of the median annual adjusted gross income
- Multifamily project containing 50 or more residential units, at least 20 percent of which are used to provide affordable housing
- 75 percent of the assessed value if affordable housing is fewer than 100 percent of the project
- 100 percent of the assessed value if affordable housing is 100 percent of the project
- 2024 through 2026



Fla. Stat. § 196.1978

Available Exemptions:

- **Non-Profit Affordable Housing**
- **Non-Profit owned land with 99-year lease for Affordable Housing**
- **Multifamily projects subject to an agreement with the Florida Housing Finance Corporation**



Fla. Stat. § 196.1978

Available Exemptions:

- **The “Missing Middle” Exemption**, portions of property in a multifamily project are considered property used for a charitable purpose if such portions provide affordable housing and are within a newly constructed multifamily project that contains more than 70 units

Newly Constructed

- “Newly constructed” means an improvement to real property which was substantially completed within 5 years of application for exemption
- “Substantially completed” means “the improvement or some self-sufficient unit within it can be used for the purpose for which it was constructed”

What is a newly constructed project?

Newly Constructed

- Include...
 - Renovation?
 - Rehabilitation?
 - Conversion?
- “New construction” in FL statutes
- Manatee County decision—ground up
- Orange County decision—conversion

Affordable Housing Exemptions in Other States

- **Illinois**: reduction in assessed value for qualifying new construction and rehabilitation (within certain parameters)
- **Washington**: new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing in urban centers
- **New York**: originally for new housing developments, now expanded to encourage the construction of new affordable housing and revive multifamily development—allows for eligible conversions in addition to new construction
- **New Jersey**: PILOT (payment in lieu of taxes)
- **Georgia**: exemption for housing projects under a private enterprise agreement with local housing authority

Affordable Housing Exemptions in Other States

WHAT ABOUT YOUR STATE?

- **Does your state offer affordable housing property tax exemptions?**
- **What types of affordable housing projects are covered?**
- **Are the tax exemptions 100% or assessment reductions?**
- **Does your state or local jurisdiction offer different affordable housing incentives?**

Roundtable Discussion Points

- **If exemptions are limited to ground up, are developers actually incentivized?**
 - **Economic viability**
 - **Raw land availability**
- **Current lawsuit in Alachua County—does student housing qualify?**
- **Current lawsuit in Bal Harbour—does Live Local infringe on home rule?**
- **Developing law—can a Property Appraiser change their mind?**