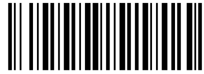
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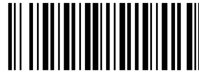
LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
Floor: 1/AE/3R	.	Floor: C
05/03/2019 12:10 PM	.	05/03/2019 06:24 PM
	.	

Senator Lee moved the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Section 125.01055, Florida Statutes, is amended
6 to read:
7 125.01055 Affordable housing.—
8 (1) Notwithstanding any other provision of law, a county
9 may adopt and maintain in effect any law, ordinance, rule, or
10 other measure that is adopted for the purpose of increasing the
11 supply of affordable housing using land use mechanisms such as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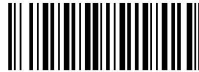
12 inclusionary housing ordinances.
13 (2) An inclusionary housing ordinance may require a
14 developer to provide a specified number or percentage of
15 affordable housing units to be included in a development or
16 allow a developer to contribute to a housing fund or other
17 alternatives in lieu of building the affordable housing units.
18 However, in exchange, a county must provide incentives to fully
19 offset all costs to the developer of its affordable housing
20 contribution. Such incentives may include, but are not limited
21 to:
22 (a) Allowing the developer density or intensity bonus
23 incentives or more floor space than allowed under the current or
24 proposed future land use designation or zoning;
25 (b) Reducing or waiving fees, such as impact fees or water
26 and sewer charges; or
27 (c) Granting other incentives.
28 (3) Subsection (2) does not apply in an area of critical
29 state concern, as designated in s. 380.0552.
30 Section 2. Section 125.022, Florida Statutes, is amended to
31 read:
32 125.022 Development permits and orders.—
33 (1) Within 30 days after receiving an application for
34 approval of a development permit or development order, a county
35 must review the application for completeness and issue a letter
36 indicating that all required information is submitted or
37 specifying with particularity any areas that are deficient. If
38 the application is deficient, the applicant has 30 days to
39 address the deficiencies by submitting the required additional
40 information. Within 120 days after the county has deemed the

444806

41 application complete, or 180 days for applications that require
42 final action through a quasi-judicial hearing or a public
43 hearing, the county must approve, approve with conditions, or
44 deny the application for a development permit or development
45 order. Both parties may agree to a reasonable request for an
46 extension of time, particularly in the event of a force majeure
47 or other extraordinary circumstance. An approval, approval with
48 conditions, or denial of the application for a development
49 permit or development order must include written findings
50 supporting the county's decision. The timeframes contained in
51 this subsection do not apply in an area of critical state
52 concern, as designated in s. 380.0552.
53 (2) ~~(1)~~ When reviewing an application for a development
54 permit or development order that is certified by a professional
55 listed in s. 403.0877, a county may not request additional
56 information from the applicant more than three times, unless the
57 applicant waives the limitation in writing. Before a third
58 request for additional information, the applicant must be
59 offered a meeting to attempt to resolve outstanding issues.
60 Except as provided in subsection (5) ~~(4)~~, if the applicant
61 believes the request for additional information is not
62 authorized by ordinance, rule, statute, or other legal
63 authority, the county, at the applicant's request, shall proceed
64 to process the application for approval or denial.
65 (3) ~~(2)~~ When a county denies an application for a
66 development permit or development order, the county shall give
67 written notice to the applicant. The notice must include a
68 citation to the applicable portions of an ordinance, rule,
69 statute, or other legal authority for the denial of the permit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70 or order.
71 (4)~~(3)~~ As used in this section, the terms ~~term~~ "development
72 permit" and "development order" have ~~has~~ the same meaning as in
73 s. 163.3164, but do ~~does~~ not include building permits.
74 (5)~~(4)~~ For any development permit application filed with
75 the county after July 1, 2012, a county may not require as a
76 condition of processing or issuing a development permit or
77 development order that an applicant obtain a permit or approval
78 from any state or federal agency unless the agency has issued a
79 final agency action that denies the federal or state permit
80 before the county action on the local development permit.
81 (6)~~(5)~~ Issuance of a development permit or development
82 order by a county does not in any way create any rights on the
83 part of the applicant to obtain a permit from a state or federal
84 agency and does not create any liability on the part of the
85 county for issuance of the permit if the applicant fails to
86 obtain requisite approvals or fulfill the obligations imposed by
87 a state or federal agency or undertakes actions that result in a
88 violation of state or federal law. A county shall attach such a
89 disclaimer to the issuance of a development permit and shall
90 include a permit condition that all other applicable state or
91 federal permits be obtained before commencement of the
92 development.
93 (7)~~(6)~~ This section does not prohibit a county from
94 providing information to an applicant regarding what other state
95 or federal permits may apply.
96 Section 3. Subsection (3) of section 163.3167, Florida
97 Statutes, is amended to read:
98 163.3167 Scope of act.—

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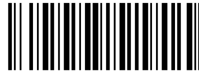
99 (3) A municipality established after the effective date of
100 this act shall, within 1 year after incorporation, establish a
101 local planning agency, pursuant to s. 163.3174, and prepare and
102 adopt a comprehensive plan of the type and in the manner set out
103 in this act within 3 years after the date of such incorporation.
104 A county comprehensive plan is ~~shall be deemed~~ controlling until
105 the municipality adopts a comprehensive plan in accordance
106 ~~accord~~ with this act. A comprehensive plan adopted after January
107 1, 2019, and all land development regulations adopted to
108 implement the comprehensive plan must incorporate each
109 development order existing before the comprehensive plan's
110 effective date, may not impair the completion of a development
111 in accordance with such existing development order, and must
112 vest the density and intensity approved by such development
113 order existing on the effective date of the comprehensive plan
114 without limitation or modification.
115 Section 4. Paragraph (i) of subsection (5) and paragraph
116 (h) of subsection (6) of section 163.3180, Florida Statutes, are
117 amended to read:
118 163.3180 Concurrency.—
119 (5)
120 (i) If a local government elects to repeal transportation
121 concurrency, it is encouraged to adopt an alternative mobility
122 funding system that uses one or more of the tools and techniques
123 identified in paragraph (f). Any alternative mobility funding
124 system adopted may not be used to deny, time, or phase an
125 application for site plan approval, plat approval, final
126 subdivision approval, building permits, or the functional
127 equivalent of such approvals provided that the developer agrees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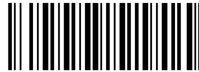
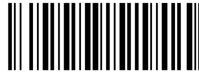
128 to pay for the development’s identified transportation impacts
129 via the funding mechanism implemented by the local government.
130 The revenue from the funding mechanism used in the alternative
131 system must be used to implement the needs of the local
132 government’s plan which serves as the basis for the fee imposed.
133 A mobility fee-based funding system must comply with s.
134 163.31801 governing ~~the dual rational nexus test applicable to~~
135 impact fees. An alternative system that is not mobility fee-
136 based shall not be applied in a manner that imposes upon new
137 development any responsibility for funding an existing
138 transportation deficiency as defined in paragraph (h).
139 (6)
140 (h)1. In order to limit the liability of local governments,
141 a local government may allow a landowner to proceed with
142 development of a specific parcel of land notwithstanding a
143 failure of the development to satisfy school concurrency, if all
144 the following factors are shown to exist:
145 a. The proposed development would be consistent with the
146 future land use designation for the specific property and with
147 pertinent portions of the adopted local plan, as determined by
148 the local government.
149 b. The local government’s capital improvements element and
150 the school board’s educational facilities plan provide for
151 school facilities adequate to serve the proposed development,
152 and the local government or school board has not implemented
153 that element or the project includes a plan that demonstrates
154 that the capital facilities needed as a result of the project
155 can be reasonably provided.
156 c. The local government and school board have provided a

444806

157 means by which the landowner will be assessed a proportionate
158 share of the cost of providing the school facilities necessary
159 to serve the proposed development.
160 2. If a local government applies school concurrency, it may
161 not deny an application for site plan, final subdivision
162 approval, or the functional equivalent for a development or
163 phase of a development authorizing residential development for
164 failure to achieve and maintain the level-of-service standard
165 for public school capacity in a local school concurrency
166 management system where adequate school facilities will be in
167 place or under actual construction within 3 years after the
168 issuance of final subdivision or site plan approval, or the
169 functional equivalent. School concurrency is satisfied if the
170 developer executes a legally binding commitment to provide
171 mitigation proportionate to the demand for public school
172 facilities to be created by actual development of the property,
173 including, but not limited to, the options described in sub-
174 subparagraph a. Options for proportionate-share mitigation of
175 impacts on public school facilities must be established in the
176 comprehensive plan and the interlocal agreement pursuant to s.
177 163.31777.
178 a. Appropriate mitigation options include the contribution
179 of land; the construction, expansion, or payment for land
180 acquisition or construction of a public school facility; the
181 construction of a charter school that complies with the
182 requirements of s. 1002.33(18); or the creation of mitigation
183 banking based on the construction of a public school facility in
184 exchange for the right to sell capacity credits. Such options
185 must include execution by the applicant and the local government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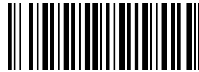
186 of a development agreement that constitutes a legally binding
187 commitment to pay proportionate-share mitigation for the
188 additional residential units approved by the local government in
189 a development order and actually developed on the property,
190 taking into account residential density allowed on the property
191 prior to the plan amendment that increased the overall
192 residential density. The district school board must be a party
193 to such an agreement. As a condition of its entry into such a
194 development agreement, the local government may require the
195 landowner to agree to continuing renewal of the agreement upon
196 its expiration.
197 b. If the interlocal agreement and the local government
198 comprehensive plan authorize a contribution of land; the
199 construction, expansion, or payment for land acquisition; the
200 construction or expansion of a public school facility, or a
201 portion thereof; or the construction of a charter school that
202 complies with the requirements of s. 1002.33(18), as
203 proportionate-share mitigation, the local government shall
204 credit such a contribution, construction, expansion, or payment
205 toward any other impact fee or exaction imposed by local
206 ordinance for public educational facilities ~~the same need~~, on a
207 dollar-for-dollar basis at fair market value. The credit must be
208 based on the total impact fee assessed and not on the impact fee
209 for any particular type of school.
210 c. Any proportionate-share mitigation must be directed by
211 the school board toward a school capacity improvement identified
212 in the 5-year school board educational facilities plan that
213 satisfies the demands created by the development in accordance
214 with a binding developer’s agreement.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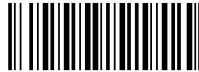
215 3. This paragraph does not limit the authority of a local
216 government to deny a development permit or its functional
217 equivalent pursuant to its home rule regulatory powers, except
218 as provided in this part.
219 Section 5. Section 163.31801, Florida Statutes, is amended
220 to read:
221 163.31801 Impact fees; short title; intent; minimum
222 requirements; audits; challenges ~~definitions; ordinances levying~~
223 ~~impact fees~~.—
224 (1) This section may be cited as the "Florida Impact Fee
225 Act."
226 (2) The Legislature finds that impact fees are an important
227 source of revenue for a local government to use in funding the
228 infrastructure necessitated by new growth. The Legislature
229 further finds that impact fees are an outgrowth of the home rule
230 power of a local government to provide certain services within
231 its jurisdiction. Due to the growth of impact fee collections
232 and local governments' reliance on impact fees, it is the intent
233 of the Legislature to ensure that, when a county or municipality
234 adopts an impact fee by ordinance or a special district adopts
235 an impact fee by resolution, the governing authority complies
236 with this section.
237 (3) At a minimum, an impact fee adopted by ordinance of a
238 county or municipality or by resolution of a special district
239 must satisfy all of the following conditions~~, at minimum~~:
240 (a) ~~Require that~~ The calculation of the impact fee must be
241 based on the most recent and localized data.
242 (b) The local government must provide for accounting and
243 reporting of impact fee collections and expenditures. If a local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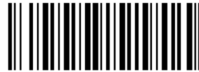
244 governmental entity imposes an impact fee to address its
245 infrastructure needs, the entity <u>must</u> ~~shall~~ account for the
246 revenues and expenditures of such impact fee in a separate
247 accounting fund.
248 (c) ~~Limit~~ Administrative charges for the collection of
249 impact fees <u>must be limited</u> to actual costs.
250 (d) <u>The local government must provide</u> ~~Require that~~ notice
251 <u>not</u> ~~be provided no~~ less than 90 days before the effective date
252 of an ordinance or resolution imposing a new or increased impact
253 fee. A county or municipality is not required to wait 90 days to
254 decrease, suspend, or eliminate an impact fee.
255 <u>(e) Collection of the impact fee may not be required to</u>
256 <u>occur earlier than the date of issuance of the building permit</u>
257 <u>for the property that is subject to the fee.</u>
258 <u>(f) The impact fee must be proportional and reasonably</u>
259 <u>connected to, or have a rational nexus with, the need for</u>
260 <u>additional capital facilities and the increased impact generated</u>
261 <u>by the new residential or commercial construction.</u>
262 <u>(g) The impact fee must be proportional and reasonably</u>
263 <u>connected to, or have a rational nexus with, the expenditures of</u>
264 <u>the funds collected and the benefits accruing to the new</u>
265 <u>residential or nonresidential construction.</u>
266 <u>(h) The local government must specifically earmark funds</u>
267 <u>collected under the impact fee for use in acquiring,</u>
268 <u>constructing, or improving capital facilities to benefit new</u>
269 <u>users.</u>
270 <u>(i) Revenues generated by the impact fee may not be used,</u>
271 <u>in whole or in part, to pay existing debt or for previously</u>
272 <u>approved projects unless the expenditure is reasonably connected</u>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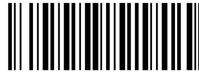
273 to, or has a rational nexus with, the increased impact generated
274 by the new residential or nonresidential construction.
275 (4) The local government must credit against the collection
276 of the impact fee any contribution, whether identified in a
277 proportionate share agreement or other form of exaction, related
278 to public education facilities, including land dedication, site
279 planning and design, or construction. Any contribution must be
280 applied to reduce any education-based impact fees on a dollar-
281 for-dollar basis at fair market value.
282 (5) If a local government increases its impact fee rates,
283 the holder of any impact fee credits, whether such credits are
284 granted under s. 163.3180, s. 380.06, or otherwise, which were
285 in existence before the increase, is entitled to the full
286 benefit of the intensity or density prepaid by the credit
287 balance as of the date it was first established. This subsection
288 shall operate prospectively and not retrospectively.
289 (6)~~(4)~~ Audits of financial statements of local governmental
290 entities and district school boards which are performed by a
291 certified public accountant pursuant to s. 218.39 and submitted
292 to the Auditor General must include an affidavit signed by the
293 chief financial officer of the local governmental entity or
294 district school board stating that the local governmental entity
295 or district school board has complied with this section.
296 (7)~~(5)~~ In any action challenging an impact fee or the
297 government's failure to provide required dollar-for-dollar
298 credits for the payment of impact fees as provided in s.
299 163.3180(6)(h)2.b., the government has the burden of proving by
300 a preponderance of the evidence that the imposition or amount of
301 the fee or credit meets the requirements of state legal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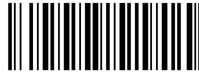
302 precedent and ~~or~~ this section. The court may not use a
303 deferential standard for the benefit of the government.
304 (8) A county, municipality, or special district may provide
305 an exception or waiver for an impact fee for the development or
306 construction of housing that is affordable, as defined in s.
307 420.9071. If a county, municipality, or special district
308 provides such an exception or waiver, it is not required to use
309 any revenues to offset the impact.
310 (9) This section does not apply to water and sewer
311 connection fees.
312 Section 6. Paragraph (j) is added to subsection (2) of
313 section 163.3202, Florida Statutes, to read:
314 163.3202 Land development regulations.—
315 (2) Local land development regulations shall contain
316 specific and detailed provisions necessary or desirable to
317 implement the adopted comprehensive plan and shall at a minimum:
318 (j) Incorporate preexisting development orders identified
319 pursuant to s. 163.3167(3).
320 Section 7. Subsection (8) of section 163.3215, Florida
321 Statutes, is amended to read:
322 163.3215 Standing to enforce local comprehensive plans
323 through development orders.—
324 (8)(a) In any proceeding under subsection (3), either party
325 is entitled to the summary procedure provided in s. 51.011, and
326 the court shall advance the cause on the calendar, subject to
327 paragraph (b) ~~or subsection (4), the Department of Legal Affairs~~
328 ~~may intervene to represent the interests of the state~~.
329 (b) Upon a showing by either party by clear and convincing
330 evidence that summary procedure is inappropriate, the court may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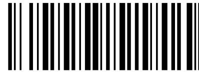
331 determine that summary procedure does not apply.
332 (c) The prevailing party in a challenge to a development
333 order filed under subsection (3) is entitled to recover
334 reasonable attorney fees and costs incurred in challenging or
335 defending the order, including reasonable appellate attorney
336 fees and costs.
337 Section 8. Section 166.033, Florida Statutes, is amended to
338 read:
339 166.033 Development permits and orders.—
340 (1) Within 30 days after receiving an application for
341 approval of a development permit or development order, a
342 municipality must review the application for completeness and
343 issue a letter indicating that all required information is
344 submitted or specifying with particularity any areas that are
345 deficient. If the application is deficient, the applicant has 30
346 days to address the deficiencies by submitting the required
347 additional information. Within 120 days after the municipality
348 has deemed the application complete, or 180 days for
349 applications that require final action through a quasi-judicial
350 hearing or a public hearing, the municipality must approve,
351 approve with conditions, or deny the application for a
352 development permit or development order. Both parties may agree
353 to a reasonable request for an extension of time, particularly
354 in the event of a force majeure or other extraordinary
355 circumstance. An approval, approval with conditions, or denial
356 of the application for a development permit or development order
357 must include written findings supporting the municipality’s
358 decision. The timeframes contained in this subsection do not
359 apply in an area of critical state concern, as designated in s.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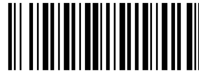
360 380.0552 or chapter 28-36, Florida Administrative Code.
361 (2) ~~(1)~~ When reviewing an application for a development
362 permit or development order that is certified by a professional
363 listed in s. 403.0877, a municipality may not request additional
364 information from the applicant more than three times, unless the
365 applicant waives the limitation in writing. Before a third
366 request for additional information, the applicant must be
367 offered a meeting to attempt to resolve outstanding issues.
368 Except as provided in subsection (5) ~~(4)~~, if the applicant
369 believes the request for additional information is not
370 authorized by ordinance, rule, statute, or other legal
371 authority, the municipality, at the applicant’s request, shall
372 proceed to process the application for approval or denial.
373 (3) ~~(2)~~ When a municipality denies an application for a
374 development permit or development order, the municipality shall
375 give written notice to the applicant. The notice must include a
376 citation to the applicable portions of an ordinance, rule,
377 statute, or other legal authority for the denial of the permit
378 or order.
379 (4) ~~(3)~~ As used in this section, the terms ~~term~~ “development
380 permit” and “development order” have ~~has~~ the same meaning as in
381 s. 163.3164, but do ~~does~~ not include building permits.
382 (5) ~~(4)~~ For any development permit application filed with
383 the municipality after July 1, 2012, a municipality may not
384 require as a condition of processing or issuing a development
385 permit or development order that an applicant obtain a permit or
386 approval from any state or federal agency unless the agency has
387 issued a final agency action that denies the federal or state
388 permit before the municipal action on the local development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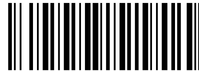
389 permit.
390 (6) ~~(5)~~ Issuance of a development permit or development
391 order by a municipality does not ~~in any way~~ create any right on
392 the part of an applicant to obtain a permit from a state or
393 federal agency and does not create any liability on the part of
394 the municipality for issuance of the permit if the applicant
395 fails to obtain requisite approvals or fulfill the obligations
396 imposed by a state or federal agency or undertakes actions that
397 result in a violation of state or federal law. A municipality
398 shall attach such a disclaimer to the issuance of development
399 permits and shall include a permit condition that all other
400 applicable state or federal permits be obtained before
401 commencement of the development.
402 (7) ~~(6)~~ This section does not prohibit a municipality from
403 providing information to an applicant regarding what other state
404 or federal permits may apply.
405 Section 9. Section 166.04151, Florida Statutes, is amended
406 to read:
407 166.04151 Affordable housing.—
408 (1) Notwithstanding any other provision of law, a
409 municipality may adopt and maintain in effect any law,
410 ordinance, rule, or other measure that is adopted for the
411 purpose of increasing the supply of affordable housing using
412 land use mechanisms such as inclusionary housing ordinances.
413 (2) An inclusionary housing ordinance may require a
414 developer to provide a specified number or percentage of
415 affordable housing units to be included in a development or
416 allow a developer to contribute to a housing fund or other
417 alternatives in lieu of building the affordable housing units.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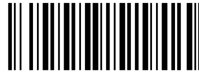
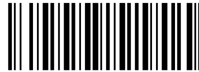
418 However, in exchange, a municipality must provide incentives to
419 fully offset all costs to the developer of its affordable
420 housing contribution. Such incentives may include, but are not
421 limited to:
422 (a) Allowing the developer density or intensity bonus
423 incentives or more floor space than allowed under the current or
424 proposed future land use designation or zoning;
425 (b) Reducing or waiving fees, such as impact fees or water
426 and sewer charges; or
427 (c) Granting other incentives.
428 (3) Subsection (2) does not apply in an area of critical
429 state concern, as designated by s. 380.0552 or chapter 28-36,
430 Florida Administrative Code.
431 Section 10. Subsection (8) of section 420.502, Florida
432 Statutes, is amended to read:
433 420.502 Legislative findings.—It is hereby found and
434 declared as follows:
435 (8)(a) It is necessary to create new programs to stimulate
436 the construction and substantial rehabilitation of rental
437 housing for eligible persons and families.
438 (b) It is necessary to create a state housing finance
439 strategy to provide affordable workforce housing opportunities
440 to essential services personnel in areas of critical state
441 concern designated under s. 380.05, for which the Legislature
442 has declared its intent to provide affordable housing, and areas
443 that were designated as areas of critical state concern for at
444 least 20 consecutive years before removal of the designation.
445 The lack of affordable workforce housing has been exacerbated by
446 the dwindling availability of developable land, environmental



447 constraints, rising construction and insurance costs, and the
448 shortage of lower-cost housing units. As this state’s population
449 continues to grow, essential services personnel vital to the
450 economies of areas of critical state concern are unable to live
451 in the communities where they work, creating transportation
452 congestion and hindering their quality of life and community
453 engagement.
454 Section 11. Present subsections (18) through (42) of
455 section 420.503, Florida Statutes, are redesignated as
456 subsections (19) through (43), respectively, a new subsection
457 (18) is added to that section, and subsection (15) of that
458 section is amended, to read:
459 420.503 Definitions.—As used in this part, the term:
460 (15) “Elderly” means persons 62 years of age or older;
461 however, this definition does not prohibit housing from being
462 deemed housing for the elderly as defined in subsection (20)
463 ~~(19)~~ if such housing otherwise meets the requirements of
464 subsection (20) ~~(19)~~.
465 (18) “Essential services personnel” means natural persons
466 or families whose total annual household income is at or below
467 120 percent of the area median income, adjusted for household
468 size, and at least one of whom is employed as police or fire
469 personnel, a child care worker, a teacher or other education
470 personnel, health care personnel, a public employee, or a
471 service worker.
472 Section 12. Subsection (3) of section 420.5095, Florida
473 Statutes, is amended to read:
474 420.5095 Community Workforce Housing Innovation Pilot
475 Program.—

444806

476 (3) For purposes of this section, the term:
477 (a) “Workforce housing” means housing affordable to natural
478 persons or families whose total annual household income does not
479 exceed 140 percent of the area median income, adjusted for
480 household size, or 150 percent of area median income, adjusted
481 for household size, in areas of critical state concern
482 designated under s. 380.05, for which the Legislature has
483 declared its intent to provide affordable housing, and areas
484 that were designated as areas of critical state concern for at
485 least 20 consecutive years prior to removal of the designation.
486 (b) ~~“Essential services personnel” means persons in need of~~
487 ~~affordable housing who are employed in occupations or~~
488 ~~professions in which they are considered essential services~~
489 ~~personnel, as defined by each county and eligible municipality~~
490 ~~within its respective local housing assistance plan pursuant to~~
491 ~~s. 420.9075(3)(a).~~
492 ~~(c)~~ “Public-private partnership” means any form of business
493 entity that includes substantial involvement of at least one
494 county, one municipality, or one public sector entity, such as a
495 school district or other unit of local government in which the
496 project is to be located, and at least one private sector for-
497 profit or not-for-profit business or charitable entity, and may
498 be any form of business entity, including a joint venture or
499 contractual agreement.
500 Section 13. Paragraph (a) of subsection (1) of section
501 252.363, Florida Statutes, is amended to read:
502 252.363 Tolling and extension of permits and other
503 authorizations.—
504 (1)(a) The declaration of a state of emergency issued by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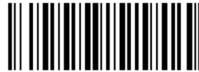
505 the Governor <u>for a natural emergency</u> tolls the period remaining
506 to exercise the rights under a permit or other authorization for
507 the duration of the emergency declaration. Further, the
508 emergency declaration extends the period remaining to exercise
509 the rights under a permit or other authorization for 6 months in
510 addition to the tolled period. This paragraph applies to the
511 following:
512 1. The expiration of a development order issued by a local
513 government.
514 2. The expiration of a building permit.
515 3. The expiration of a permit issued by the Department of
516 Environmental Protection or a water management district pursuant
517 to part IV of chapter 373.
518 4. The buildout date of a development of regional impact,
519 including any extension of a buildout date that was previously
520 granted as specified in s. 380.06(7)(c).
521 Section 14. Subsection (1), paragraph (b) of subsection
522 (2), and subsections (4) through (7) and (18) of section
523 553.791, Florida Statutes, are amended to read:
524 553.791 Alternative plans review and inspection.—
525 (1) As used in this section, the term:
526 (a) “Applicable codes” means the Florida Building Code and
527 any local technical amendments to the Florida Building Code but
528 does not include the applicable minimum fire prevention and
529 firesafety codes adopted pursuant to chapter 633.
530 (b) “Audit” means the process to confirm that the building
531 code inspection services have been performed by the private
532 provider, including ensuring that the required affidavit for the
533 plan review has been properly completed and affixed to the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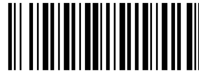
534 permit documents and that the minimum mandatory inspections
535 required under the building code have been performed and
536 properly recorded. The ~~term does not mean that the~~ local
537 building official may not ~~is required to~~ replicate the plan
538 review or inspection being performed by the private provider,
539 unless expressly authorized by this section.
540 (c) "Building" means any construction, erection,
541 alteration, demolition, or improvement of, or addition to, any
542 structure or site work for which permitting by a local
543 enforcement agency is required.
544 (d) "Building code inspection services" means those
545 services described in s. 468.603(5) and (8) involving the review
546 of building plans as well as those services involving the review
547 of site plans and site work engineering plans or their
548 functional equivalent, to determine compliance with applicable
549 codes and those inspections required by law of each phase of
550 construction for which permitting by a local enforcement agency
551 is required to determine compliance with applicable codes.
552 (e) "Duly authorized representative" means an agent of the
553 private provider identified in the permit application who
554 reviews plans or performs inspections as provided by this
555 section and who is licensed as an engineer under chapter 471 or
556 as an architect under chapter 481 or who holds a standard
557 certificate under part XII of chapter 468.
558 (f) "Immediate threat to public safety and welfare" means a
559 building code violation that, if allowed to persist, constitutes
560 an immediate hazard that could result in death, serious bodily
561 injury, or significant property damage. This paragraph does not
562 limit the authority of the local building official to issue a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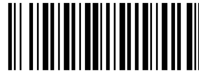
563 Notice of Corrective Action at any time during the construction
564 of a building project or any portion of such project if the
565 official determines that a condition of the building or portion
566 thereof may constitute a hazard when the building is put into
567 use following completion as long as the condition cited is shown
568 to be in violation of the building code or approved plans.
569 (g) "Local building official" means the individual within
570 the governing jurisdiction responsible for direct regulatory
571 administration or supervision of plans review, enforcement, and
572 inspection of any construction, erection, alteration,
573 demolition, or substantial improvement of, or addition to, any
574 structure for which permitting is required to indicate
575 compliance with applicable codes and includes any duly
576 authorized designee of such person.
577 (h) "Permit application" means a properly completed and
578 submitted application for the requested building or construction
579 permit, including:
580 1. The plans reviewed by the private provider.
581 2. The affidavit from the private provider required under
582 subsection (6).
583 3. Any applicable fees.
584 4. Any documents required by the local building official to
585 determine that the fee owner has secured all other government
586 approvals required by law.
587 (i) "Plans" means building plans, site engineering plans,
588 or site plans, or their functional equivalent, submitted by a
589 fee owner or fee owner's contractor to a private provider or
590 duly authorized representative for review.
591 (j) ~~(i)~~ "Private provider" means a person licensed as a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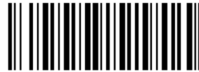
592 building code administrator under part XII of chapter 468, as an
593 engineer under chapter 471, or as an architect under chapter
594 481. For purposes of performing inspections under this section
595 for additions and alterations that are limited to 1,000 square
596 feet or less to residential buildings, the term "private
597 provider" also includes a person who holds a standard
598 certificate under part XII of chapter 468.
599 (k) ~~(j)~~ "Request for certificate of occupancy or certificate
600 of completion" means a properly completed and executed
601 application for:
602 1. A certificate of occupancy or certificate of completion.
603 2. A certificate of compliance from the private provider
604 required under subsection (11).
605 3. Any applicable fees.
606 4. Any documents required by the local building official to
607 determine that the fee owner has secured all other government
608 approvals required by law.
609 (l) "Site work" means the portion of a construction project
610 that is not part of the building structure, including, but not
611 limited to, grading, excavation, landscape irrigation, and
612 installation of driveways.
613 (m) ~~(k)~~ "Stop-work order" means the issuance of any written
614 statement, written directive, or written order which states the
615 reason for the order and the conditions under which the cited
616 work will be permitted to resume.
617 (2)
618 (b) It is the intent of the Legislature that owners and
619 contractors pay reduced fees ~~not be required to pay extra costs~~
620 related to building permitting requirements when hiring a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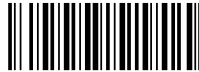
621 private provider for plans review and building inspections. A
622 local jurisdiction must calculate the cost savings to the local
623 enforcement agency, based on a fee owner or contractor hiring a
624 private provider to perform plans reviews and building
625 inspections in lieu of the local building official, and reduce
626 the permit fees accordingly. The local jurisdiction may not
627 charge fees for building inspections if the fee owner or
628 contractor hires a private provider; however, the local
629 jurisdiction may charge a reasonable administrative fee.
630 (4) A fee owner or the fee owner's contractor using a
631 private provider to provide building code inspection services
632 shall notify the local building official at the time of permit
633 application, or by 2 p.m. local time, 2 ~~no less than 7~~ business
634 days before ~~prior to~~ the first scheduled inspection by the local
635 building official or building code enforcement agency for a
636 private provider performing required inspections of construction
637 under this section, on a form to be adopted by the commission.
638 This notice shall include the following information:
639 (a) The services to be performed by the private provider.
640 (b) The name, firm, address, telephone number, and
641 facsimile number of each private provider who is performing or
642 will perform such services, his or her professional license or
643 certification number, qualification statements or resumes, and,
644 if required by the local building official, a certificate of
645 insurance demonstrating that professional liability insurance
646 coverage is in place for the private provider's firm, the
647 private provider, and any duly authorized representative in the
648 amounts required by this section.
649 (c) An acknowledgment from the fee owner in substantially

444806

650 the following form:
651
652 I have elected to use one or more private providers to
653 provide building code plans review and/or inspection
654 services on the building or structure that is the
655 subject of the enclosed permit application, as
656 authorized by s. 553.791, Florida Statutes. I
657 understand that the local building official may not
658 review the plans submitted or perform the required
659 building inspections to determine compliance with the
660 applicable codes, except to the extent specified in
661 said law. Instead, plans review and/or required
662 building inspections will be performed by licensed or
663 certified personnel identified in the application. The
664 law requires minimum insurance requirements for such
665 personnel, but I understand that I may require more
666 insurance to protect my interests. By executing this
667 form, I acknowledge that I have made inquiry regarding
668 the competence of the licensed or certified personnel
669 and the level of their insurance and am satisfied that
670 my interests are adequately protected. I agree to
671 indemnify, defend, and hold harmless the local
672 government, the local building official, and their
673 building code enforcement personnel from any and all
674 claims arising from my use of these licensed or
675 certified personnel to perform building code
676 inspection services with respect to the building or
677 structure that is the subject of the enclosed permit
678 application.

444806

679
680 If the fee owner or the fee owner's contractor makes any changes
681 to the listed private providers or the services to be provided
682 by those private providers, the fee owner or the fee owner's
683 contractor shall, within 1 business day after any change, update
684 the notice to reflect such changes. A change of a duly
685 authorized representative named in the permit application does
686 not require a revision of the permit, and the building code
687 enforcement agency shall not charge a fee for making the change.
688 In addition, the fee owner or the fee owner's contractor shall
689 post at the project site, before ~~prior to~~ the commencement of
690 construction and updated within 1 business day after any change,
691 on a form to be adopted by the commission, the name, firm,
692 address, telephone number, and facsimile number of each private
693 provider who is performing or will perform building code
694 inspection services, the type of service being performed, and
695 similar information for the primary contact of the private
696 provider on the project.
697 (5) After construction has commenced and if the local
698 building official is unable to provide inspection services in a
699 timely manner, the fee owner or the fee owner's contractor may
700 elect to use a private provider to provide inspection services
701 by notifying the local building official of the owner's or
702 contractor's intention to do so by 2 p.m. local time, 2 ~~no less~~
703 ~~than 7~~ business days before ~~prior to~~ the next scheduled
704 inspection using the notice provided for in paragraphs (4)(a)-
705 (c).
706 (6) A private provider performing plans review under this
707 section shall review the ~~construction~~ plans to determine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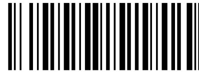
708 compliance with the applicable codes. Upon determining that the
709 plans reviewed comply with the applicable codes, the private
710 provider shall prepare an affidavit or affidavits on a form
711 reasonably acceptable to ~~adopted by~~ the commission certifying,
712 under oath, that the following is true and correct to the best
713 of the private provider's knowledge and belief:
714 (a) The plans were reviewed by the affiant, who is duly
715 authorized to perform plans review pursuant to this section and
716 holds the appropriate license or certificate.
717 (b) The plans comply with the applicable codes.
718 (7)(a) No more than 20 ~~30~~ business days after receipt of a
719 permit application and the affidavit from the private provider
720 required pursuant to subsection (6), the local building official
721 shall issue the requested permit or provide a written notice to
722 the permit applicant identifying the specific plan features that
723 do not comply with the applicable codes, as well as the specific
724 code chapters and sections. If the local building official does
725 not provide a written notice of the plan deficiencies within the
726 prescribed 20-day ~~30-day~~ period, the permit application shall be
727 deemed approved as a matter of law, and the permit shall be
728 issued by the local building official on the next business day.
729 (b) If the local building official provides a written
730 notice of plan deficiencies to the permit applicant within the
731 prescribed 20-day ~~30-day~~ period, the 20-day ~~30-day~~ period shall
732 be tolled pending resolution of the matter. To resolve the plan
733 deficiencies, the permit applicant may elect to dispute the
734 deficiencies pursuant to subsection (13) or to submit revisions
735 to correct the deficiencies.
736 (c) If the permit applicant submits revisions, the local

444806

737 building official has the remainder of the tolled 20-day ~~30-day~~
738 period plus 5 business days from the date of resubmittal to
739 issue the requested permit or to provide a second written notice
740 to the permit applicant stating which of the previously
741 identified plan features remain in noncompliance with the
742 applicable codes, with specific reference to the relevant code
743 chapters and sections. Any subsequent review by the local
744 building official is limited to the deficiencies cited in the
745 written notice. If the local building official does not provide
746 the second written notice within the prescribed time period, the
747 permit shall be deemed approved as a matter of law, and ~~issued~~
748 ~~by~~ the local building official must issue the permit on the next
749 business day.
750 (d) If the local building official provides a second
751 written notice of plan deficiencies to the permit applicant
752 within the prescribed time period, the permit applicant may
753 elect to dispute the deficiencies pursuant to subsection (13) or
754 to submit additional revisions to correct the deficiencies. For
755 all revisions submitted after the first revision, the local
756 building official has an additional 5 business days from the
757 date of resubmittal to issue the requested permit or to provide
758 a written notice to the permit applicant stating which of the
759 previously identified plan features remain in noncompliance with
760 the applicable codes, with specific reference to the relevant
761 code chapters and sections.
762 (18) Each local building code enforcement agency may audit
763 the performance of building code inspection services by private
764 providers operating within the local jurisdiction. However, the
765 same private provider may not be audited more than four times in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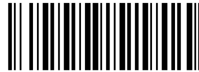
766 a calendar year unless the local building official determines a
767 condition of a building constitutes an immediate threat to
768 public safety and welfare. Work on a building or structure may
769 proceed after inspection and approval by a private provider if
770 the provider has given notice of the inspection pursuant to
771 subsection (9) and, subsequent to such inspection and approval,
772 the work shall not be delayed for completion of an inspection
773 audit by the local building code enforcement agency.
774 Section 15. Paragraph (l) of subsection (2) of section
775 718.112, Florida Statutes, is amended to read:
776 718.112 Bylaws.—
777 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
778 following and, if they do not do so, shall be deemed to include
779 the following:
780 (l) *Firesafety.*—An association must ensure compliance with
781 the Florida Fire Prevention Code. As to a residential
782 condominium building that is a high-rise building as defined
783 under the Florida Fire Prevention Code, the association must
784 retrofit either a fire sprinkler system or an engineered life
785 safety system as specified in the Florida Fire Prevention Code
786 ~~*Certificate of compliance.*—A provision that a certificate of~~
787 ~~compliance from a licensed electrical contractor or electrician~~
788 ~~may be accepted by the association’s board as evidence of~~
789 ~~compliance of the condominium units with the applicable fire and~~
790 ~~life safety code must be included~~. Notwithstanding chapter 633
791 or of any other code, statute, ordinance, administrative rule,
792 or regulation, or any interpretation of the foregoing, an
793 association, residential condominium, or unit owner is not
794 obligated to retrofit the common elements, association property,

444806

795 or units of a residential condominium with a fire sprinkler
796 system in a building that has been certified for occupancy by
797 the applicable governmental entity if the unit owners have voted
798 to forego such retrofitting by the affirmative vote of a
799 majority of all voting interests in the affected condominium.
800 The local authority having jurisdiction may not require
801 completion of retrofitting with a fire sprinkler system or an
802 engineered life safety system before January 1, 2024 ~~2020~~. ~~By~~
803 ~~December 31, 2016, a residential condominium association that is~~
804 ~~not in compliance with the requirements for a fire sprinkler~~
805 ~~system and has not voted to forego retrofitting of such a system~~
806 ~~must initiate an application for a building permit for the~~
807 ~~required installation with the local government having~~
808 ~~jurisdiction demonstrating that the association will become~~
809 ~~compliant by December 31, 2019.~~
810 1. A vote to forego retrofitting may be obtained by limited
811 proxy or by a ballot personally cast at a duly called membership
812 meeting, or by execution of a written consent by the member, and
813 is effective upon recording a certificate attesting to such vote
814 in the public records of the county where the condominium is
815 located. The association shall mail or hand deliver to each unit
816 owner written notice at least 14 days before the membership
817 meeting in which the vote to forego retrofitting of the required
818 fire sprinkler system is to take place. Within 30 days after the
819 association’s opt-out vote, notice of the results of the opt-out
820 vote must be mailed or hand delivered to all unit owners.
821 Evidence of compliance with this notice requirement must be made
822 by affidavit executed by the person providing the notice and
823 filed among the official records of the association. After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824 notice is provided to each owner, a copy must be provided by the
825 current owner to a new owner before closing and by a unit owner
826 to a renter before signing a lease.
827 2. If there has been a previous vote to forego
828 retrofitting, a vote to require retrofitting may be obtained at
829 a special meeting of the unit owners called by a petition of at
830 least 10 percent of the voting interests. Such a vote may only
831 be called once every 3 years. Notice shall be provided as
832 required for any regularly called meeting of the unit owners,
833 and must state the purpose of the meeting. Electronic
834 transmission may not be used to provide notice of a meeting
835 called in whole or in part for this purpose.
836 3. As part of the information collected annually from
837 condominiums, the division shall require condominium
838 associations to report the membership vote and recording of a
839 certificate under this subsection and, if retrofitting has been
840 undertaken, the per-unit cost of such work. The division shall
841 annually report to the Division of State Fire Marshal of the
842 Department of Financial Services the number of condominiums that
843 have elected to forego retrofitting.
844 4. Notwithstanding s. 553.509, a residential association
845 may not be obligated to, and may forego the retrofitting of, any
846 improvements required by s. 553.509(2) upon an affirmative vote
847 of a majority of the voting interests in the affected
848 condominium.
849 5. This paragraph does not apply to timeshare condominium
850 associations, which shall be governed by s. 721.24.
851 Section 16. Section 718.1085, Florida Statutes, is amended
852 to read:

444806

853 718.1085 Certain regulations not to be retroactively
854 applied.—Notwithstanding the provisions of chapter 633 or of any
855 other code, statute, ordinance, administrative rule, or
856 regulation, or any interpretation thereof, an association,
857 condominium, or unit owner is not obligated to retrofit the
858 common elements or units of a residential condominium that meets
859 the definition of "housing for older persons" in s.
860 760.29(4)(b)3. to comply with requirements relating to handrails
861 and guardrails if the unit owners have voted to forego such
862 retrofitting by the affirmative vote of two-thirds of all voting
863 interests in the affected condominium. However, a condominium
864 association may not vote to forego the retrofitting in common
865 areas in a high-rise building. For the purposes of this section,
866 the term "high-rise building" means a building that is greater
867 than 75 feet in height where the building height is measured
868 from the lowest level of fire department access to the floor of
869 the highest occupiable level. For the purposes of this section,
870 the term "common areas" means stairwells and exposed, outdoor
871 walkways and corridors, but does not include individual
872 balconies. In no event shall the local authority having
873 jurisdiction require retrofitting of common areas with handrails
874 and guardrails before the end of 2024 ~~2014~~.
875 (1) A vote to forego retrofitting may not be obtained by
876 general proxy or limited proxy, but shall be obtained by a vote
877 personally cast at a duly called membership meeting, or by
878 execution of a written consent by the member, and shall be
879 effective upon the recording of a certificate attesting to such
880 vote in the public records of the county where the condominium
881 is located. The association shall provide each unit owner

444806

882 written notice of the vote to forego retrofitting of the
883 required handrails or guardrails, or both, in at least 16-point
884 bold type, by certified mail, within 20 days after the
885 association’s vote. After such notice is provided to each owner,
886 a copy of such notice shall be provided by the current owner to
887 a new owner prior to closing and shall be provided by a unit
888 owner to a renter prior to signing a lease.
889 (2) As part of the information collected annually from
890 condominiums, the division shall require condominium
891 associations to report the membership vote and recording of a
892 certificate under this subsection and, if retrofitting has been
893 undertaken, the per-unit cost of such work. The division shall
894 annually report to the Division of State Fire Marshal of the
895 Department of Financial Services the number of condominiums that
896 have elected to forego retrofitting.
897 Section 17. By July 1, 2019, the State Fire Marshal shall
898 issue a data call to all local fire officials to collect data
899 regarding high-rise condominiums greater than 75 feet in height
900 which have not retrofitted with a fire sprinkler system or an
901 engineered life safety system in accordance with ss. 633.208(5)
902 and 718.112(2)(l), Florida Statutes. Local fire officials shall
903 submit such data to the State Fire Marshal and shall include,
904 for each individual building, the address, the number of units,
905 and the number of stories. By July 1, 2020, all data must be
906 received and compiled into a report by city and county. By
907 September 1, 2020, the report must be sent to the Governor, the
908 President of the Senate, and the Speaker of the House of
909 Representatives.
910 Section 18. This act shall take effect upon becoming a law.

444806

911
912 ================= T I T L E A M E N D M E N T ================
913 And the title is amended as follows:
914 Delete everything before the enacting clause
915 and insert:
916 A bill to be entitled
917 An act relating to community development and housing;
918 amending s. 125.01055, F.S.; authorizing an
919 inclusionary housing ordinance to require a developer
920 to provide a specified number or percentage of
921 affordable housing units to be included in a
922 development or allow a developer to contribute to a
923 housing fund or other alternatives; requiring a county
924 to provide certain incentives to fully offset all
925 costs to the developer of its affordable housing
926 contribution; providing applicability; amending s.
927 125.022, F.S.; requiring that a county review the
928 application for completeness and issue a certain
929 letter within a specified period after receiving an
930 application for approval of a development permit or
931 development order; providing procedures for addressing
932 deficiencies in, and for approving or denying, the
933 application; providing applicability of certain
934 timeframes; conforming provisions to changes made by
935 the act; defining the term “development order”;
936 amending s. 163.3167, F.S.; providing requirements for
937 a comprehensive plan adopted after a specified date
938 and all land development regulations adopted to
939 implement the comprehensive plan; amending s.

444806

940 163.3180, F.S.; revising compliance requirements for a
941 mobility fee-based funding system; requiring a local
942 government to credit certain contributions,
943 constructions, expansions, or payments toward any
944 other impact fee or exaction imposed by local
945 ordinance for public educational facilities; providing
946 requirements for the basis of the credit; amending s.
947 163.31801, F.S.; adding minimum conditions that
948 certain impact fees must satisfy; requiring a local
949 government to credit against the collection of an
950 impact fee any contribution related to public
951 education facilities, subject to certain requirements;
952 requiring the holder of certain impact fee credits to
953 be entitled to a certain benefit if a local government
954 increases its impact fee rates; providing
955 applicability; providing that the government, in
956 certain actions, has the burden of proving by a
957 preponderance of the evidence that the imposition or
958 amount of certain required dollar-for-dollar credits
959 for the payment of impact fees meets certain
960 requirements; prohibiting the court from using a
961 deferential standard for the benefit of the
962 government; authorizing a county, municipality, or
963 special district to provide an exception or waiver for
964 an impact fee for the development or construction of
965 housing that is affordable; providing that if a
966 county, municipality, or special district provides
967 such exception or waiver, it is not required to use
968 any revenues to offset the impact; providing

444806

969 applicability; amending s. 163.3202, F.S.; requiring
970 local land development regulations to incorporate
971 certain preexisting development orders; amending s.
972 163.3215, F.S.; providing that either party is
973 entitled to a certain summary procedure in certain
974 proceedings; requiring the court to advance such cause
975 on the calendar, subject to certain requirements;
976 providing that the prevailing party in a certain
977 challenge to a development order is entitled to
978 certain attorney fees and costs; amending s. 166.033,
979 F.S.; requiring that a municipality review the
980 application for completeness and issue a certain
981 letter within a specified period after receiving an
982 application for approval of a development permit or
983 development order; providing procedures for addressing
984 deficiencies in, and for approving or denying, the
985 application; providing applicability of certain
986 timeframes; conforming provisions to changes made by
987 the act; defining the term "development order";
988 amending s. 166.04151, F.S.; authorizing an
989 inclusionary housing ordinance to require a developer
990 to provide a specified number or percentage of
991 affordable housing units to be included in a
992 development or allow a developer to contribute to a
993 housing fund or other alternatives; requiring a
994 municipality to provide certain incentives to fully
995 offset all costs to the developer of its affordable
996 housing contribution; providing applicability;
997 amending s. 420.502, F.S.; revising legislative

444806

998 findings for a certain state housing finance strategy;
999 amending s. 420.503, F.S.; conforming cross-
1000 references; defining the term "essential services
1001 personnel"; amending s. 420.5095, F.S.; deleting the
1002 definition of the term "essential services personnel";
1003 amending s. 252.363, F.S.; providing that the
1004 declaration of a state of emergency issued by the
1005 Governor for a natural emergency tolls the period
1006 remaining to exercise the rights under a permit or
1007 other authorization for the duration of the emergency
1008 declaration; amending s. 553.791, F.S.; providing and
1009 revising definitions; revising legislative intent;
1010 prohibiting a local jurisdiction from charging fees
1011 for building inspections if the fee owner or
1012 contractor hires a private provider; authorizing the
1013 local jurisdiction to charge a reasonable
1014 administrative fee; revising the timeframe within
1015 which an owner or contractor must notify the building
1016 official that he or she is using a certain private
1017 provider; revising the type of affidavit form to be
1018 used by certain private providers under certain
1019 circumstances; revising the timeframe within which a
1020 building official must approve or deny a permit
1021 application; specifying the timeframe within which the
1022 local building official must issue a certain permit or
1023 notice of noncompliance if the permit applicant
1024 submits revisions; limiting a building official's
1025 review of a resubmitted permit application to
1026 previously identified deficiencies; limiting the

444806

1027 number of times a building official may audit a
1028 private provider, with exceptions; amending s.
1029 718.112, F.S.; requiring condominium associations to
1030 ensure compliance with the Florida Fire Prevention
1031 Code; requiring associations to retrofit certain high-
1032 rise buildings with either a fire sprinkler system or
1033 an engineered life safety system as specified in the
1034 code; deleting a requirement for association bylaws to
1035 include a provision relating to certain certificates
1036 of compliance; extending and specifying the date
1037 before which local authorities having jurisdiction may
1038 not require completion of retrofitting a fire
1039 sprinkler system or a engineered life safety system,
1040 respectively; deleting an obsolete provision;
1041 providing applicability; amending s. 718.1085, F.S.;
1042 revising the definition of the term “common areas” to
1043 exclude individual balconies; extending the year
1044 before which the local authority having jurisdiction
1045 may not require retrofitting of common areas with
1046 handrails and guardrails; requiring the State Fire
1047 Marshal, by a certain date, to issue a data call to
1048 all local fire officials to collect data on certain
1049 high-rise condominiums; specifying data that local
1050 fire officials must submit; requiring that all data be
1051 received and compiled into a certain report by a
1052 certain date; requiring that the report be sent to the
1053 Governor and the Legislature by a certain date;
1054 providing an effective date.