A bill to be entitled
An act relating to property development; amending s. 125.01055, F.S.; prohibiting a county from adopting or imposing a requirement in any form relating to affordable housing which has specified effects; providing construction; amending s. 125.022, F.S.; requiring that a county review certain applications for completeness and issue a certain letter within a specified time period after receiving an application for approval of a development permit or development order; providing procedures for addressing deficiencies in, and for approving or denying, the application; conforming provisions to changes made by the act; defining the term "development order"; amending s. 166.033, F.S.; requiring that a municipality review certain applications for completeness and issue a certain letter within a specified time period after receiving an application for approval of a development permit or development order; providing procedures for addressing deficiencies in, and for approving or denying, the application; conforming provisions to changes made by the act; defining the term "development order"; amending s. 166.04151, F.S.; prohibiting a municipality from adopting or imposing a requirement...
in any form relating to affordable housing which has specified effects; providing construction; amending s. 163.3215, F.S.; specifying use of summary procedure in certain development order cases; amending s. 553.791, F.S.; providing and revising definitions; revising the timeframe an owner or contractor must notify the building official that he or she is using a private provider; revising the type of affidavit form to be used by private providers under certain circumstances; revising the timeframe within which a building official has to approve or deny a permit application; limiting a building official's review of a resubmitted permit application to previously identified deficiencies; authorizing a contractor to petition the circuit court to enforce the terms of certain building code inspection service laws; limiting the number of times a building official may audit a private provider, with exceptions; providing an effective date.

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

Section 1. Section 125.01055, Florida Statutes, is amended to read:

125.01055 Affordable housing.
(1) Notwithstanding any other provision of law, a county may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances. A county may not, however, adopt or impose a requirement in any form, including, without limitation, by way of a comprehensive plan amendment, ordinance, or land development regulation or as a condition of a development order or development permit, which has any of the following effects:

(a) Mandating or establishing a maximum sales price or lease rental for privately produced dwelling units.

(b) Requiring the allocation or designation, whether directly or indirectly, of privately produced dwelling units for sale or rental to any particular class or group of purchasers or tenants.

(c) Requiring the provision of any onsite or offsite workforce or affordable housing units or a contribution of land or money for such housing, including, but not limited to, the payment of any flat or percentage-based fee, whether calculated on the basis of the number of approved dwelling units, the amount of approved square footage, or otherwise.

(2) This section does not limit the authority of a county to create or implement a voluntary density bonus program or any other voluntary incentive-based program designed to increase the
supply of workforce or affordable housing units.

Section 2. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits and development orders.—

(1) Within 30 days after receiving an application for a development permit or development order, a county must review the application for completeness and issue a letter indicating all required information is submitted or specifying with particularity any areas that are deficient. If deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information. Within 90 days after the initial submission, if complete, or the supplemental submission, whichever is later, the county shall approve, approve with conditions, or deny the application for a development permit or development order. The time periods contained in this section may be waived in writing by the applicant. An approval, approval with conditions, or denial of the application for a development permit or development order must include written findings supporting the county's decision.

(2) When reviewing an application for a development permit or development order that is certified by a professional listed in s. 403.0877, a county may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. Before a third request for additional information, the applicant must be
offered a meeting to attempt to resolve outstanding issues. Except as provided in subsection (5), if the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the county, at the applicant's request, shall proceed to process the application for approval or denial.

(3) When a county denies an application for a development permit or development order, the county shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit or order.

(4) As used in this section, the terms "development permit" and "development order" have the same meaning as in s. 163.3164, but do not include building permits.

(5) For any development permit application filed with the county on or after July 1, 2012, a county may not require as a condition of processing or issuing a development permit or development order that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the county action on the local development permit.

(6) Issuance of a development permit or development order by a county does not in any way create any rights on the
part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A county shall attach such a disclaimer to the issuance of a development permit and shall include a permit condition that all other applicable state or federal permits be obtained before commencement of the development.

(7) This section does not prohibit a county from providing information to an applicant regarding what other state or federal permits may apply.

Section 3. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits and development orders.—

(1) Within 30 days after receiving an application for a development permit or development order, a municipality must review the application for completeness and issue a letter indicating all required information is submitted or specifying with particularity any areas that are deficient. If deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information. Within 90 days after the initial submission, if complete, or the supplemental submission, whichever is later, the municipality shall approve,
approve with conditions, or deny the application for a
development permit or development order. The time periods
contained in this section may be waived in writing by the
applicant. An approval, approval with conditions, or denial of
the application for a development permit or development order
must include written findings supporting the municipality's
decision.

(2) When reviewing an application for a development
permit or development order that is certified by a professional
listed in s. 403.0877, a municipality may not request additional
information from the applicant more than three times, unless the
applicant waives the limitation in writing. Before a third
request for additional information, the applicant must be
offered a meeting to attempt to resolve outstanding issues.
Except as provided in subsection (5), if the applicant
believes the request for additional information is not
authorized by ordinance, rule, statute, or other legal
authority, the municipality, at the applicant's request, shall
proceed to process the application for approval or denial.

(3) When a municipality denies an application for a
development permit or development order, the municipality shall
give written notice to the applicant. The notice must include a
citation to the applicable portions of an ordinance, rule,
statute, or other legal authority for the denial of the permit
or order.
(4)(3) As used in this section, the terms "development permit" and "development order" have the same meaning as in s. 163.3164, but do not include building permits.

(5)(4) For any development permit application filed with the municipality on or after July 1, 2012, a municipality may not require as a condition of processing or issuing a development permit or development order that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the municipal action on the local development permit.

(6)(5) Issuance of a development permit or development order by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A municipality shall attach such a disclaimer to the issuance of development permits and shall include a permit condition that all other applicable state or federal permits be obtained before commencement of the development.

(7)(6) This section does not prohibit a municipality from...
providing information to an applicant regarding what other state
or federal permits may apply.

Section 4. Section 166.04151, Florida Statutes, is amended
to read:

166.04151 Affordable housing.—

(1) Notwithstanding any other provision of law, a
municipality may adopt and maintain in effect any law,
ordinance, rule, or other measure that is adopted for the
purpose of increasing the supply of affordable housing using
land use mechanisms such as inclusionary housing ordinances. A
municipality may not, however, adopt or impose a requirement in
any form, including, without limitation, by way of a
comprehensive plan amendment, ordinance, or land development
regulation or as a condition of a development order or
development permit, which has any of the following effects:

(a) Mandating or establishing a maximum sales price or
lease rental for privately produced dwelling units,
(b) Requiring the allocation or designation, whether
directly or indirectly, of privately produced dwelling units for
sale or rental to any particular class or group of purchasers or
tenants.
(c) Requiring the provision of any onsite or offsite
workforce or affordable housing units or a contribution of land
or money for such housing, including, but not limited to, the
payment of any flat or percentage-based fee, whether calculated
on the basis of the number of approved dwelling units, the
amount of approved square footage, or otherwise.

(2) This section does not limit the authority of a
municipality to create or implement a voluntary density bonus
program or any other voluntary incentive-based program designed
to increase the supply of workforce or affordable housing units.

Section 5. Subsections (8) and (9) of section 163.3215, Florida Statutes, are renumbered as subsections (9) and (10)
respectively, and a new subsection (8) is added to that section, to read:

163.3215 Standing to enforce local comprehensive plans
through development orders.—

(8)(a) In any proceeding under subsection (3), either
party is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on the calendar,
subject to paragraph (b).

(b) Upon a showing by either party by clear and convincing
evidence that summary procedure is inappropriate, the court may
determine that summary procedure does not apply.

Section 6. Subsections (1), (4), (5), (6), (7), and (18)
of section 553.791, Florida Statutes, are amended, and paragraph
(d) is added to subsection (15), to read:

553.791 Alternative plans review and inspection.—

(1) As used in this section, the term:
(a) "Applicable codes" means the Florida Building Code and
any local technical amendments to the Florida Building Code but
does not include the applicable minimum fire prevention and
firesafety codes adopted pursuant to chapter 633.

(b) "Audit" means the process to confirm that the building
code inspection services have been performed by the private
provider, including ensuring that the required affidavit for the
plan review has been properly completed and affixed to the
permit documents and that the minimum mandatory inspections
required under the building code have been performed and
properly recorded. The term does not mean that the local
building official may not is required to replicate the plan
review or inspection being performed by the private provider,
unless expressly authorized by this section.

(c) "Building" means any construction, erection,
alteration, demolition, or improvement of, or addition to, any
structure or site work for which permitting by a local
enforcement agency is required.

(d) "Building code inspection services" means those
services described in s. 468.603(5) and (8) involving the review
of building plans as well as those services involving the review
of site plans and site work engineering plans or their
functional equivalent, to determine compliance with applicable
codes and those inspections required by law of each phase of
construction for which permitting by a local enforcement agency
is required to determine compliance with applicable codes.
(e) "Duly authorized representative" means an agent of the private provider identified in the permit application who reviews plans or performs inspections as provided by this section and who is licensed as an engineer under chapter 471 or as an architect under chapter 481 or who holds a standard certificate under part XII of chapter 468.

(f) "Immediate threat to public safety and welfare" means a building code violation that, if allowed to persist, constitutes an immediate hazard that could result in death, serious bodily injury, or significant property damage. This paragraph does not limit the authority of the local building official to issue a Notice of Corrective Action at any time during the construction of a building project or any portion of such project if the official determines that a condition of the building or portion thereof may constitute a hazard when the building is put into use following completion as long as the condition cited is shown to be in violation of the building code or approved plans.

(g) "Local building official" means the individual within the governing jurisdiction responsible for direct regulatory administration or supervision of plans review, enforcement, and inspection of any construction, erection, alteration, demolition, or substantial improvement of, or addition to, any structure for which permitting is required to indicate compliance with applicable codes and includes any duly
authorized designee of such person.

(h) "Permit application" means a properly completed and submitted application for the requested building or construction permit, including:

1. The plans reviewed by the private provider.
2. The affidavit from the private provider required under subsection (6).
3. Any applicable fees.
4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(i) "Plans" means building plans, site engineering plans, or site plans, or their functional equivalent, submitted by a fee owner or fee owner’s contractor to a private provider or duly authorized representative for review.

(j) "Private provider" means a person licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term "private provider" also includes a person who holds a standard certificate under part XII of chapter 468.

(k) "Request for certificate of occupancy or certificate of completion" means a properly completed and...
executed application for:

1. A certificate of occupancy or certificate of completion.

2. A certificate of compliance from the private provider required under subsection (11).

3. Any applicable fees.

4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(l) "Site work" means the portion of a construction project that is not part of the building structure, including, but not limited to, grading, excavation, landscape irrigation, and installation of driveways.

(m) "Stop-work order" means the issuance of any written statement, written directive, or written order which states the reason for the order and the conditions under which the cited work will be permitted to resume.

(4) A fee owner or the fee owner's contractor using a private provider to provide building code inspection services shall notify the local building official at the time of permit application, or no less than 27 business days before prior to the first scheduled inspection by the local building official or building code enforcement agency for a private provider performing required inspections of construction under this section, on a form to be adopted by the commission. This notice
shall include the following information:

(a) The services to be performed by the private provider.

(b) The name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform such services, his or her professional license or certification number, qualification statements or resumes, and, if required by the local building official, a certificate of insurance demonstrating that professional liability insurance coverage is in place for the private provider's firm, the private provider, and any duly authorized representative in the amounts required by this section.

(c) An acknowledgment from the fee owner in substantially the following form:

I have elected to use one or more private providers to provide building code plans review and/or inspection services on the building or structure that is the subject of the enclosed permit application, as authorized by s. 553.791, Florida Statutes. I understand that the local building official may not review the plans submitted or perform the required building inspections to determine compliance with the applicable codes, except to the extent specified in said law. Instead, plans review and/or required building inspections will be performed by licensed or certified personnel identified in the application. The law requires minimum insurance requirements for such personnel, but I understand that I may require more insurance to protect my
interests. By executing this form, I acknowledge that I have made inquiry regarding the competence of the licensed or certified personnel and the level of their insurance and am satisfied that my interests are adequately protected. I agree to indemnify, defend, and hold harmless the local government, the local building official, and their building code enforcement personnel from any and all claims arising from my use of these licensed or certified personnel to perform building code inspection services with respect to the building or structure that is the subject of the enclosed permit application.

If the fee owner or the fee owner's contractor makes any changes to the listed private providers or the services to be provided by those private providers, the fee owner or the fee owner's contractor shall, within 1 business day after any change, update the notice to reflect such changes. A change of a duly authorized representative named in the permit application does not require a revision of the permit, and the building code enforcement agency shall not charge a fee for making the change. In addition, the fee owner or the fee owner's contractor shall post at the project site, prior to the commencement of construction and updated within 1 business day after any change, on a form to be adopted by the commission, the name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform building code inspection services, the type of service being performed, and

CODING: Words stricken are deletions; words underlined are additions.
similar information for the primary contact of the private provider on the project.

(5) After construction has commenced and if the local building official is unable to provide inspection services in a timely manner, the fee owner or the fee owner's contractor may elect to use a private provider to provide inspection services by notifying the local building official of the owner's or contractor's intention to do so no less than 27 business days before the next scheduled inspection using the notice provided for in paragraphs (4)(a)-(c).

(6) A private provider performing plans review under this section shall review the construction plans to determine compliance with the applicable codes. Upon determining that the plans reviewed comply with the applicable codes, the private provider shall prepare an affidavit or affidavits on a form reasonably acceptable to adopted by the commission certifying, under oath, that the following is true and correct to the best of the private provider's knowledge and belief:

(a) The plans were reviewed by the affiant, who is duly authorized to perform plans review pursuant to this section and holds the appropriate license or certificate.

(b) The plans comply with the applicable codes.

(7)(a) No more than 5 business days after receipt of a permit application and the affidavit from the private provider required pursuant to subsection (6), the local building official
shall issue the requested permit or provide a written notice to
the permit applicant identifying the specific plan features that
do not comply with the applicable codes, as well as the specific
code chapters and sections. If the local building official does
not provide a written notice of the plan deficiencies within the
prescribed 5-day 30-day period, the permit application shall be
deemed approved as a matter of law, and the permit shall be
issued by the local building official on the next business day.

(b) If the local building official provides a written
notice of plan deficiencies to the permit applicant within the
prescribed 5-day 30-day period, the 5-day 30-day period shall be
tolled pending resolution of the matter. To resolve the plan
deficiencies, the permit applicant may elect to dispute the
deficiencies pursuant to subsection (13) or to submit revisions
to correct the deficiencies.

(c) If the permit applicant submits revisions, the local
building official has 3 the remainder of the tolled 30-day
period plus 5 business days from the date of resubmittal to
issue the requested permit or to provide a second written notice
to the permit applicant stating which of the previously
identified plan features remain in noncompliance with the
applicable codes, with specific reference to the relevant code
chapters and sections. Any subsequent review by the local
building official is limited to the deficiencies cited in the
written notice. If the local building official does not provide
the second written notice within the prescribed time period, the permit shall be deemed approved as a matter of law, and issued by the local building official must issue the permit on the next business day.

(d) If the local building official provides a second written notice of plan deficiencies to the permit applicant within the prescribed time period, the permit applicant may elect to dispute the deficiencies pursuant to subsection (13) or to submit additional revisions to correct the deficiencies. For all revisions submitted after the first revision, the local building official has an additional 3 business days from the date of resubmittal to issue the requested permit or to provide a written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections.

(15) (d) If the local jurisdiction fails to comply with the provisions set forth in this section, the fee owner's contractor that has requested to use a private provider to provide building code inspection services under this section may petition the circuit court for the local jurisdiction to enforce the terms of this section by writ of injunctive or other equitable relief.

(18) Each local building code enforcement agency may audit the performance of building code inspection services by private
providers operating within the local jurisdiction. However, the same private provider may not be audited more than four times in a calendar year unless the local building official determines a condition of a building constitutes an immediate threat to public safety and welfare. Work on a building or structure may proceed after inspection and approval by a private provider if the provider has given notice of the inspection pursuant to subsection (9) and, subsequent to such inspection and approval, the work shall not be delayed for completion of an inspection audit by the local building code enforcement agency.

Section 7. This act shall take effect July 1, 2019.