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.
163.31801, F.S.; providing minimum requirements to be
satisfied by certain entities before adopting an
impact fee; requiring local government to credit
against the collection of impact fees certain
contributions related to public education facilities;
specifying the calculation; requiring a local
government to increase certain impact or mobility fee
credits previously awarded if it increases its impact
fee or mobility fee rates; 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 term
"development permit" and "development order" have the same
meaning as in s. 163.3164, but do not include building
permits.
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.

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.

This section does not prohibit a county from providing information to an applicant regarding what other state or federal permits may apply.
(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) 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 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) 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) 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. Section 163.31801, Florida Statutes, is amended
to read:
163.31801 Impact fees; short title; intent; minimum
requirements; audits; challenges definitions; ordinances levying
impact fees.—
(1) This section may be cited as the "Florida Impact Fee
Act."
(2) The Legislature finds that impact fees are an
important source of revenue for a local government to use in
funding the infrastructure necessitated by new growth. The
Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district adopts an impact fee by resolution, the governing authority complies with this section.

(3) At a minimum, an impact fee adopted by ordinance of a county or municipality or by resolution of a special district must satisfy all of the following conditions, at minimum:

(a) The local government must calculate require that the calculation of the impact fee be based on the most recent and localized data.

(b) The local government must provide for accounting and reporting of impact fee collections and expenditures. If a local government governmental entity imposes an impact fee to address its infrastructure needs, the local government must entity shall account for the revenues and expenditures of such impact fee in a separate accounting fund.

(c) The local government must limit administrative charges for the collection of impact fees to actual costs.

(d) The local government must provide require that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee.
A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.

(e) The local government may not require payment of the impact fee before the date of issuance of the building permit for the property that is subject to the fee.

(f) The impact fee must be reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.

(g) The impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or commercial construction.

(h) The local government must specifically earmark revenues generated by the impact fee to acquire, construct, or improve capital facilities to benefit new users.

(i) The local government may not use revenues generated by the impact fee to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or commercial construction.

(4) The local government must credit against the collection of the impact fee any contribution, whether identified in a proportionate share agreement or other form of exaction, related to public education facilities, including land
dedication, site planning and design, or construction. Any
contribution must be applied to reduce impact fees on a dollar-
for-dollar basis at fair market value. If the local government
adjusts the amount of the impact fees, outstanding and unused
credits must be adjusted accordingly.

(5) If a local government increases its impact fee or
mobility fee rates, then the holder of any impact or mobility
fee credits, whether such credits are granted under s. 163.3180,
s. 380.06, or otherwise, which were in existence before the
increase, is entitled to a proportionate increase in the credit
balance.

(6) Audits of financial statements of local
governmental entities and district school boards which are
performed by a certified public accountant pursuant to s. 218.39
and submitted to the Auditor General must include an affidavit
signed by the chief financial officer of the local governmental
entity or district school board stating that the local
governmental entity or district school board has complied with
this section.

(7) In any action challenging an impact fee, the
government has the burden of proving by a preponderance of the
evidence that the imposition or amount of the fee meets the
requirements of state legal precedent or this section. The court
may not use a deferential standard.

(8) Notwithstanding any provision to the contrary in this
chapter, if a local government does not provide the credits
required in paragraph (4) for a project, the local government
may not impose concurrency mitigation conditions on the project.

Section 6. 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 7. 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)(k) "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, before 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 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 2 business days before prior to 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 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 on the next business day.
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 5 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 8. This act shall take effect July 1, 2019.