By Senator Calatayud

38-01885A-25 20251730__

A bill to be entitled

An act relating to affordable housing; amending ss. 125.01055 and 166.04151, F.S.; requiring counties and municipalities, respectively, to authorize multifamily and mixed-use residential as allowable uses in portions of flexibly zoned areas under certain circumstances; prohibiting counties and municipalities from imposing certain requirements on proposed multifamily developments; prohibiting counties and municipalities from requiring that more than a specified percentage of a mixed-use residential project be used for certain purposes; revising the height below which counties and municipalities may not restrict certain developments; requiring the administrative approval of certain proposed developments without further action by a quasi-judicial or administrative board or reviewing body under certain circumstances; requiring counties and municipalities to reduce parking requirements by at least a specified percentage for certain proposed developments under certain circumstances; requiring a court to give priority to and render expeditious decisions in certain civil actions; requiring a court to award reasonable attorney fees and costs and damages to a prevailing plaintiff in certain civil actions; providing that such attorney fees or costs and damages may not exceed a specified dollar amount; prohibiting the prevailing plaintiff from recovering certain other fees or costs; defining terms;

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prohibiting counties and municipalities from imposing certain building moratoriums; providing an exception, subject to certain requirements; authorizing applicants for certain proposed developments to notify the county or municipality, as applicable, by a specified date of its intent to proceed under certain provisions; requiring counties and municipalities to allow certain applicants to submit revised applications, written requests, and notices of intent to account for changes made by the act; amending s. 380.0552, F.S.; revising the maximum hurricane evacuation clearance time for permanent residents, which time is an element for which amendments to local comprehensive plans in the Florida Keys Area must be reviewed for compliance; providing legislative intent; creating s. 420.5098, F.S.; providing legislative findings and intent; defining terms; providing that it is the policy of the state to support housing for certain employees and to permit developers in receipt of certain tax credits and funds to create a specified preference for housing certain employees; requiring that such preference conform to certain requirements; amending s. 760.26, F.S.; providing that it is unlawful to discriminate in land use decisions or in the permitting of development based on the specified nature of a development or proposed development; providing an effective date.

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

Section 1. Present paragraph (l) of subsection (7) of section 125.01055, Florida Statutes, is redesignated as paragraph (o), a new paragraph (l) and paragraphs (m) and (n) are added to that subsection, subsection (9) is added to that section, and paragraphs (a), (d), (e), and (f) of subsection (7) are amended, to read:

125.01055 Affordable housing.—

(7)(a) A county must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed use, and in portions of any flexibly zoned area such as a planned unit development permitted for commercial, industrial, or mixed use, if at least 40 percent of the residential units in a proposed multifamily development are rental units that, for a period of at least 30 years, are affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or regulation to the contrary, a county may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, transfer of density or development units, amendment to a development of regional impact, amendment to a development agreement, amendment to a restrictive covenant, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection. For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes. The county may not require that more than 10 percent of the total square footage of such mixed-use residential projects be used for nonresidential purposes.

(d) 1. A county may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed, or allowed on July 1, 2023, height for a commercial or residential building located in its jurisdiction within 1 mile of the proposed development or 3 stories, whichever is higher. For purposes of this paragraph, the term "highest currently allowed height" does not include the height of any building that met the requirements of this subsection or the height of any building that has received any bonus, variance, or other special exception for height provided in the county's land development regulations as an incentive for development.

2. If the proposed development is adjacent to, on two or more sides, a parcel zoned for single-family residential use which is within a single-family residential development with at least 25 contiguous single-family homes, the county may restrict the height of the proposed development to 150 percent of the tallest building on any property adjacent to the proposed development, the highest currently allowed height for the property provided in the county's land development regulations, or 3 stories, whichever is higher. For the purposes of this paragraph, the term "adjacent to" means those properties sharing more than one point of a property line, but does not include properties separated by a public road.

(e) A proposed development authorized under this subsection must be administratively approved without ~~and no~~ further action by the board of county commissioners or any quasi-judicial or administrative board or reviewing body ~~is required~~ if the development satisfies the county's land development regulations

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for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, floor area ratios, height, and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements. A proposed development located within one-quarter mile of a military installation identified in s. 163.3175(2) may not be administratively approved. Each county shall maintain on its website a policy containing procedures and expectations for administrative approval pursuant to this subsection.

(f)1. A county must, upon request of an applicant, reduce ~~consider reducing~~ parking requirements by at least 20 percent for a proposed development authorized under this subsection if the development:

a. Is located within one-quarter mile of a transit stop, as defined in the county's land development code, and the transit stop is accessible from the development;~~.~~

~~2. A county must reduce parking requirements by at least 20 percent for a proposed development authorized under this subsection if the development:~~

b.~~a.~~ Is located within one-half mile of a major transportation hub that is accessible from the proposed development by safe, pedestrian-friendly means, such as sidewalks, crosswalks, elevated pedestrian or bike paths, or other multimodal design features; or ~~and~~

c.~~b.~~ Has available parking within 600 feet of the proposed development which may consist of options such as on-street parking, parking lots, or parking garages available for use by

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residents of the proposed development. However, a county may not require that the available parking compensate for the reduction in parking requirements.

2.~~3.~~ A county must eliminate parking requirements for a proposed mixed-use residential development authorized under this subsection within an area recognized by the county as a transit-oriented development or area, as provided in paragraph (h).

3.~~4.~~ For purposes of this paragraph, the term "major transportation hub" means any transit station, whether bus, train, or light rail, which is served by public transit with a mix of other transportation options.

(l) The court shall give any civil action filed against a county for a violation of this subsection priority over other pending cases and render a preliminary or final decision as expeditiously as possible.

(m) If a civil action is filed against a county for a violation of this subsection, the court must assess and award reasonable attorney fees and costs and damages to the prevailing plaintiff. An award of reasonable attorney fees or costs and damages pursuant to this subsection may not exceed $100,000. In addition, a prevailing plaintiff may not recover any attorney fees or costs directly incurred by or associated with litigation to determine an award of reasonable attorney fees or costs.

(n) As used in this subsection, the term:

1. "Commercial use" means activities associated with the sale, rental, or distribution of products or the performance of services related thereto. The term includes, but is not limited to, such uses or activities as retail sales; wholesale sales; rentals of equipment, goods, or products; offices; restaurants;

food service vendors; sports arenas; theaters; tourist attractions; and other for-profit business activities. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered commercial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not commercial use, irrespective of how they are operated.

2. "Industrial use" means activities associated with the manufacture, assembly, processing, or storage of products or the performance of services related thereto. The term includes, but is not limited to, such uses or activities as automobile manufacturing or repair, boat manufacturing or repair, junk yards, meat packing facilities, citrus processing and packing facilities, produce processing and packing facilities, electrical generating plants, water treatment plants, sewage treatment plants, and solid waste disposal sites. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered industrial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are

not industrial use, irrespective of how they are operated.

3. "Mixed use" means any use that combines multiple types of approved land uses from at least two of the residential use, commercial use, and industrial use categories. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not mixed use, irrespective of how they are operated.

4. "Planned unit development" has the same meaning as provided in s. 163.3202(5)(b).

(9)(a) A county may not impose a building moratorium that has the effect of delaying the permitting or construction of a multifamily residential or mixed-use residential development authorized under subsection (7) except as provided in paragraph (b).

(b) A county may, by ordinance, impose such a building moratorium for no more than 90 days in any 3-year period. Before adoption of such a building moratorium, the county shall prepare or cause to be prepared an assessment of the county's need for affordable housing at the extremely-low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004, including projections of such need for the next 5 years. This assessment must be posted on the county's website by the date the notice of proposed enactment is published, and presented at the same public meeting at which the proposed ordinance imposing the building moratorium is adopted by the board of county commissioners. This assessment must be included in the business impact estimate for the ordinance imposing such a moratorium

required by s. 125.66(3).

(c) If a civil action is filed against a county for a violation of this subsection, the court must assess and award reasonable attorney fees and costs and damages to the prevailing plaintiff. An award of reasonable attorney fees or costs and damages pursuant to this subsection may not exceed $100,000. In addition, a prevailing plaintiff may not recover any attorney fees or costs directly incurred by or associated with litigation to determine an award of reasonable attorney fees or costs.

Section 2. Present paragraph (l) of subsection (7) of section 166.04151, Florida Statutes, is redesignated as paragraph (o), a new paragraph (l) and paragraphs (m) and (n) are added to that subsection, subsection (9) is added to that section, and paragraphs (a), (d), (e), and (f) of subsection (7) are amended, to read:

166.04151 Affordable housing.—

(7)(a) A municipality must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed use, and in portions of any flexibly zoned area such as a planned unit development permitted for commercial, industrial, or mixed use, if at least 40 percent of the residential units in a proposed multifamily development are rental units that, for a period of at least 30 years, are affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or regulation to the contrary, a municipality may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, transfer of density or development units, amendment to a development of regional

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impact, amendment to a development agreements, amendment to a restrictive covenant, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection. For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes. The municipality may not require that more than 10 percent of the total square footage of such mixed-use residential projects be used for nonresidential purposes.

(d)1. A municipality may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed, or allowed on July 1, 2023, height for a commercial or residential building located in its jurisdiction within 1 mile of the proposed development or 3 stories, whichever is higher. For purposes of this paragraph, the term "highest currently allowed height" does not include the height of any building that met the requirements of this subsection or the height of any building that has received any bonus, variance, or other special exception for height provided in the municipality's land development regulations as an incentive for development.

2. If the proposed development is adjacent to, on two or more sides, a parcel zoned for single-family residential use that is within a single-family residential development with at least 25 contiguous single-family homes, the municipality may restrict the height of the proposed development to 150 percent of the tallest building on any property adjacent to the proposed development, the highest currently allowed height for the property provided in the municipality's land development regulations, or 3 stories, whichever is higher. For the purposes

of this paragraph, the term "adjacent to" means those properties sharing more than one point of a property line, but does not include properties separated by a public road or body of water, including man-made lakes or ponds.

(e) A proposed development authorized under this subsection must be administratively approved without ~~and no~~ further action by the governing body of the municipality or any quasi-judicial or administrative board or reviewing body ~~is required~~ if the development satisfies the municipality's land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, floor area ratios, height, and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements. A proposed development located within one-quarter mile of a military installation identified in s. 163.3175(2) may not be administratively approved. Each municipality shall maintain on its website a policy containing procedures and expectations for administrative approval pursuant to this subsection.

(f)1. A municipality must, upon request of an applicant, reduce ~~consider reducing~~ parking requirements for a proposed development authorized under this subsection if the development:

a. Is located within one-quarter mile of a transit stop, as defined in the municipality's land development code, and the transit stop is accessible from the development;~~.~~

~~2. A municipality must reduce parking requirements by at least 20 percent for a proposed development authorized under this subsection if the development:~~

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b.~~a.~~ Is located within one-half mile of a major transportation hub that is accessible from the proposed development by safe, pedestrian-friendly means, such as sidewalks, crosswalks, elevated pedestrian or bike paths, or other multimodal design features; or~~.~~

c.~~b.~~ Has available parking within 600 feet of the proposed development which may consist of options such as on-street parking, parking lots, or parking garages available for use by residents of the proposed development. However, a municipality may not require that the available parking compensate for the reduction in parking requirements.

2.~~3.~~ A municipality must eliminate parking requirements for a proposed mixed-use residential development authorized under this subsection within an area recognized by the municipality as a transit-oriented development or area, as provided in paragraph (h).

3.~~4.~~ For purposes of this paragraph, the term "major transportation hub" means any transit station, whether bus, train, or light rail, which is served by public transit with a mix of other transportation options.

(l) The court shall give any civil action filed against a municipality for a violation of this subsection priority over other pending cases and render a preliminary or final decision as expeditiously as possible.

(m) If a civil action is filed against a municipality for a violation of this subsection, the court must assess and award reasonable attorney fees and costs and damages to the prevailing plaintiff. An award of reasonable attorney fees or costs and damages pursuant to this subsection may not exceed $100,000. In

addition, a prevailing plaintiff may not recover any attorney fees or costs directly incurred by or associated with litigation to determine an award of reasonable attorney fees or costs.

(n) As used in this subsection, the term:

1. "Commercial use" means activities associated with the sale, rental, or distribution of products or the performance of services related thereto. The term includes, but is not limited to, such uses or activities as retail sales; wholesale sales; rentals of equipment, goods, or products; offices; restaurants; food service vendors; sports arenas; theaters; tourist attractions; and other for-profit business activities. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered commercial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not commercial use, irrespective of how they are operated.

2. "Industrial use" means activities associated with the manufacture, assembly, processing, or storage of products or the performance of services related thereto. The term includes, but is not limited to, such uses or activities as automobile manufacturing or repair, boat manufacturing or repair, junk yards, meat packing facilities, citrus processing and packing facilities, produce processing and packing facilities, electrical generating plants, water treatment plants, sewage

treatment plants, and solid waste disposal sites. A parcel zoned to permit such uses by right without the requirement to obtain a variance or waiver is considered industrial use for the purposes of this section, irrespective of the local land development regulation's listed category or title. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not industrial, irrespective of how they are operated.

3. "Mixed-use" means any use that combines multiple types of approved land uses from at least two of the residential use, commercial use, and industrial use categories. The term does not include uses that are accessory, ancillary, incidental to the allowable uses, or allowed only on a temporary basis. Recreational uses, such as golf courses, tennis courts, swimming pools, and clubhouses, within an area designated for residential use are not mixed use, irrespective of how they are operated.

4. "Planned unit development" has the same meaning as provided in s. 163.3202(5)(b).

(9)(a) A municipality may not impose a building moratorium that has the effect of delaying the permitting or construction of a multifamily residential or mixed-use residential development authorized under subsection (7) except as provided in paragraph (b).

(b) A municipality may, by ordinance, impose such a building moratorium for no more than 90 days in any 3-year period. Before adoption of such a building moratorium, the municipality shall prepare or cause to be prepared an assessment

of the municipality's need for affordable housing at the extremely-low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004, including projections of such need for the next 5 years. This assessment must be posted on the municipality's website by the date the notice of proposed enactment is published and must be presented at the same public meeting at which the proposed ordinance imposing the building moratorium is adopted by the governing body of the municipality. This assessment must be included in the business impact estimate for the ordinance imposing such a moratorium required by s. 166.041(4).

(c) If a civil action is filed against a municipality for a violation of this subsection, the court must assess and award reasonable attorney fees and costs and damages to the prevailing plaintiff. An award of reasonable attorney fees or costs and damages pursuant to this subsection may not exceed $100,000. In addition, a prevailing plaintiff may not recover any attorney fees or costs directly incurred by or associated with litigation to determine an award of reasonable attorney fees or costs.

Section 3. An applicant for a proposed development authorized under s. 125.01055(7), Florida Statutes, or s. 166.04151(7), Florida Statutes, who submitted an application, written request, or notice of intent to use such provisions to the county or municipality and which application, written request, or notice of intent has been received by the county or municipality, as applicable, before July 1, 2025, may notify the county or municipality by July 1, 2025, of its intent to proceed under the provisions of s. 125.01055(7), Florida Statutes, or s. 166.04151(7), Florida Statutes, as they existed at the time of

submittal. A county or municipality, as applicable, shall allow an applicant who submitted such application, written request, or notice of intent before July 1, 2025, the opportunity to submit a revised application, written request, or notice of intent to account for the changes made by this act.

Section 4. Paragraph (a) of subsection (9) of section 380.0552, Florida Statutes, is amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(11) for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal

systems.

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 26 ~~24~~ hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency. For purposes of hurricane evacuation clearance time:

a. Mobile home residents are not considered permanent residents.

b. The City of Key West Area of Critical State Concern established by chapter 28-36, Florida Administrative Code, shall be included in the hurricane evacuation study and is subject to the evacuation requirements of this subsection.

Section 5. It is the intent of the Legislature that the amendment made by this act to s. 380.0552, Florida Statutes, will accommodate the building of additional developments within the Florida Keys to ameliorate the acute affordable housing and building permit allocation shortage. The Legislature also intends that local governments subject to the hurricane evacuation clearance time restrictions on residential buildings manage growth with a heightened focus on long-term stability and affordable housing for the local workforce.

Section 6. Section 420.5098, Florida Statutes, is created to read:

420.5098 Public sector and hospital employer-sponsored housing policy.—

(1) The Legislature finds that it is in the best interests

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of the state and the state's economy to provide affordable housing to state residents employed by hospitals, health care facilities, and governmental entities in order to attract and maintain the highest quality labor by incentivizing such employers to sponsor affordable housing opportunities. Section 42(g)(9)(B) of the Internal Revenue Code provides that a qualified low-income housing project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants who are members of a specified group under a state program or policy that supports housing for such specified group. Therefore, it is the intent of the Legislature to establish a policy that supports the development of affordable workforce housing for employees of hospitals, health care facilities, and governmental entities.

(2) For purposes of this section, the term:

(a) "Governmental entity" means any state, regional, county, local, or municipal governmental entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of the state; any public school, state university, or Florida College System institution; or any special district as defined in s. 189.012.

(b) "Health care facility" has the same meaning as provided in s. 159.27(16).

(c) "Hospital" means a hospital under chapter 155, a hospital district created pursuant to chapter 189, or a hospital licensed pursuant to chapter 395, including corporations not for profit that are qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and for-profit entities.

(3) It is the policy of the state to support housing for employees of hospitals, health care facilities, and governmental entities and to allow developers in receipt of federal low-income housing tax credits allocated pursuant to s. 420.5099, local or state funds, or other sources of funding available to finance the development of affordable housing to create a preference for housing for such employees. Such preference must conform to the requirements of s. 42(g)(9) of the Internal Revenue Code.

Section 7. Section 760.26, Florida Statutes, is amended to read:

760.26 Prohibited discrimination in land use decisions and in permitting of development.—It is unlawful to discriminate in land use decisions or in the permitting of development based on race, color, national origin, sex, disability, familial status, religion, or, except as otherwise provided by law, the source of financing of a development or proposed development or the nature of a development or proposed development as affordable housing.

Section 8. This act shall take effect July 1, 2025.

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