

By Senator Calatayud

38-01065A-26

20261548

38-01065A-26

20261548

30 sovereign immunity for certain causes of action based
31 upon housing discrimination; providing applicability;
32 providing an effective date.

33

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

35

36 Section 1. Paragraphs (a), (d), and (n) of subsection (7)
37 of section 125.01055, Florida Statutes, are amended to read:

38 125.01055 Affordable housing.—

39 (7) (a) A county must authorize multifamily and mixed-use
40 residential as allowable uses in any area zoned for commercial,
41 industrial, or mixed use, ~~and~~ in portions of any flexibly zoned
42 area such as a planned unit development permitted for
43 commercial, industrial, or mixed use, and on property owned by a
44 county, municipality, or school district, if at least 40 percent
45 of the residential units in a proposed multifamily development
46 are rental units that, for a period of at least 30 years, are
47 affordable as defined in s. 420.0004. Notwithstanding any other
48 law, local ordinance, or regulation to the contrary, a county
49 may not require a proposed multifamily development to obtain a
50 zoning or land use change, special exception, conditional use
51 approval, variance, transfer of density or development units,
52 amendment to a development of regional impact, or comprehensive
53 plan amendment for the building height, zoning, and densities
54 authorized under this subsection. For mixed-use residential
55 projects, at least 65 percent of the total square footage must
56 be used for residential purposes. The county may not require
57 that more than 10 percent of the total square footage of such
58 mixed-use residential projects be used for nonresidential

38-01065A-26

20261548

59 purposes. A proposed development on property owned by a county,
60 municipality, or school district must be within the geographic
61 boundaries of the respective county, municipality, or school
62 district, and the respective county, municipality, or school
63 district must be a party to the application for the proposed
64 development.

65 (d)1. A county may not restrict the height of a proposed
66 development authorized under this subsection below the highest
67 currently allowed, or allowed on July 1, 2023, height for a
68 commercial or residential building located in its jurisdiction
69 within 1 mile of the proposed development or three stories,
70 whichever is higher. A county may not restrict height below the
71 height authorized under this paragraph through other dimensional
72 means, such as height determined by setbacks or stepbacks, or
73 vice versa, or require setbacks or stepbacks that are more
74 restrictive than the minimum setbacks or stepbacks of the
75 underlying zoning applicable to the proposed development. For
76 purposes of this paragraph, the term "highest currently allowed
77 height" does not include the height of any building that met the
78 requirements of this subsection or the height of any building
79 that has received any bonus, variance, or other special
80 exception for height provided in the county's land development
81 regulations as an incentive for development.

82 2. If the proposed development is adjacent to, on two or
83 more sides, a parcel zoned for single-family residential use
84 which is within a single-family residential development with at
85 least 25 contiguous single-family homes, the county may restrict
86 the height of the proposed development to 150 percent of the
87 tallest building on any property adjacent to the proposed

38-01065A-26

20261548

88 development, the highest currently allowed, or allowed on July
89 1, 2023, height for the property provided in the county's land
90 development regulations, or three stories, whichever is higher,
91 not to exceed 10 stories. For the purposes of this paragraph,
92 the term "adjacent to" means those properties sharing more than
93 one point of a property line, but does not include properties
94 separated by a public road.

95 3. If the proposed development is on a parcel with a
96 contributing structure or building within a historic district
97 which was listed in the National Register of Historic Places
98 before January 1, 2000, or is on a parcel with a structure or
99 building individually listed in the National Register of
100 Historic Places, the county may restrict the height of the
101 proposed development to the highest currently allowed, or
102 allowed on July 1, 2023, height for a commercial or residential
103 building located in its jurisdiction within three-fourths of a
104 mile of the proposed development or three stories, whichever is
105 higher. The term "highest currently allowed" in this paragraph
106 includes the maximum height allowed for any building in a zoning
107 district irrespective of any conditions.

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

109 1. "Commercial use" means activities associated with the
110 sale, rental, or distribution of products or the performance of
111 services related thereto. The term includes, but is not limited
112 to, such uses or activities as retail sales; wholesale sales;
113 rentals of equipment, goods, or products; offices; restaurants;
114 public lodging establishments as described in s. 509.242(1)(a);
115 food service vendors; sports arenas; theaters; tourist
116 attractions; and other for-profit business activities. A parcel

38-01065A-26

20261548

117 zoned to permit such uses by right without the requirement to
118 obtain a variance or waiver is considered commercial use for the
119 purposes of this section, irrespective of the local land
120 development regulation's listed category or title. The term does
121 not include home-based businesses or cottage food operations
122 undertaken on residential property, public lodging
123 establishments as described in s. 509.242(1)(c), or uses that
124 are accessory, ancillary, incidental to the allowable uses, or
125 allowed only on a temporary basis. Recreational uses, such as
126 golf courses, tennis courts, swimming pools, and clubhouses,
127 within an area designated for residential use are not commercial
128 use, irrespective of how they are operated. Farms and farm
129 operations as those terms are defined in s. 823.14(3) and uses
130 associated therewith, including the packaging and sale of
131 products raised on the premises, are not commercial use.

132 2. "Industrial use" means activities associated with the
133 manufacture, assembly, processing, or storage of products or the
134 performance of services related thereto. The term includes, but
135 is not limited to, such uses or activities as automobile
136 manufacturing or repair, boat manufacturing or repair, junk
137 yards, meat packing facilities, citrus processing and packing
138 facilities, produce processing and packing facilities,
139 electrical generating plants, water treatment plants, sewage
140 treatment plants, and solid waste disposal sites. A parcel zoned
141 to permit such uses by right without the requirement to obtain a
142 variance or waiver is considered industrial use for the purposes
143 of this section, irrespective of the local land development
144 regulation's listed category or title. The term does not include
145 uses that are accessory, ancillary, incidental to the allowable

38-01065A-26

20261548

146 uses, or allowed only on a temporary basis. Recreational uses,
147 such as golf courses, tennis courts, swimming pools, and
148 clubhouses, within an area designated for residential use are
149 not industrial use, irrespective of how they are operated. Farms
150 and farm operations as those terms are defined in s. 823.14(3)
151 and uses associated therewith, including the packaging and sale
152 of products raised on the premises, are not industrial use.

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

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

163 Section 2. Paragraphs (a), (d), and (n) of subsection (7)
164 of section 166.04151, Florida Statutes, are amended to read:

165 166.04151 Affordable housing.—

166 (7)(a) A municipality must authorize multifamily and mixed-
167 use residential as allowable uses in any area zoned for
168 commercial, industrial, or mixed use, and in portions of any
169 flexibly zoned area such as a planned unit development permitted
170 for commercial, industrial, or mixed use, and on property owned
171 by a county, municipality, or school district, if at least 40
172 percent of the residential units in a proposed multifamily
173 development are rental units that, for a period of at least 30
174 years, are affordable as defined in s. 420.0004. Notwithstanding

38-01065A-26

20261548

175 any other law, local ordinance, or regulation to the contrary, a
176 municipality may not require a proposed multifamily development
177 to obtain a zoning or land use change, special exception,
178 conditional use approval, variance, transfer of density or
179 development units, amendment to a development of regional
180 impact, amendment to a municipal charter, or comprehensive plan
181 amendment for the building height, zoning, and densities
182 authorized under this subsection. For mixed-use residential
183 projects, at least 65 percent of the total square footage must
184 be used for residential purposes. The municipality may not
185 require that more than 10 percent of the total square footage of
186 such mixed-use residential projects be used for nonresidential
187 purposes. A proposed development on property owned by a county,
188 municipality, or school district must be within the geographic
189 boundaries of the respective county, municipality, or school
190 district, and the respective county, municipality, or school
191 district must be a party to the application for the proposed
192 development.

193 (d)1. A municipality may not restrict the height of a
194 proposed development authorized under this subsection below the
195 highest currently allowed, or allowed on July 1, 2023, height
196 for a commercial or residential building located in its
197 jurisdiction within 1 mile of the proposed development or three
198 stories, whichever is higher. A municipality may not restrict
199 height below the height authorized under this paragraph through
200 other dimensional means, such as height determined by setbacks
201 or stepbacks, or vice versa, or require setbacks or stepbacks
202 that are more restrictive than the minimum setbacks or stepbacks
203 of the underlying zoning applicable to the proposed development.

38-01065A-26

20261548

204 For purposes of this paragraph, the term "highest currently
205 allowed height" does not include the height of any building that
206 met the requirements of this subsection or the height of any
207 building that has received any bonus, variance, or other special
208 exception for height provided in the municipality's land
209 development regulations as an incentive for development.

210 2. If the proposed development is adjacent to, on two or
211 more sides, a parcel zoned for single-family residential use
212 that is within a single-family residential development with at
213 least 25 contiguous single-family homes, the municipality may
214 restrict the height of the proposed development to 150 percent
215 of the tallest building on any property adjacent to the proposed
216 development, the highest currently allowed, or allowed on July
217 1, 2023, height for the property provided in the municipality's
218 land development regulations, or three stories, whichever is
219 higher, not to exceed 10 stories. For the purposes of this
220 paragraph, the term "adjacent to" means those properties sharing
221 more than one point of a property line, but does not include
222 properties separated by a public road or body of water,
223 including manmade lakes or ponds. For a proposed development
224 located within a municipality within an area of critical state
225 concern as designated by s. 380.0552 or chapter 28-36, Florida
226 Administrative Code, the term "story" includes only the
227 habitable space above the base flood elevation as designated by
228 the Federal Emergency Management Agency in the most current
229 Flood Insurance Rate Map. A story may not exceed 10 feet in
230 height measured from finished floor to finished floor, including
231 space for mechanical equipment. The highest story may not exceed
232 10 feet from finished floor to the top plate.

38-01065A-26

20261548

233 3. If the proposed development is on a parcel with a
234 contributing structure or building within a historic district
235 which was listed in the National Register of Historic Places
236 before January 1, 2000, or is on a parcel with a structure or
237 building individually listed in the National Register of
238 Historic Places, the municipality may restrict the height of the
239 proposed development to the highest currently allowed, or
240 allowed on July 1, 2023, height for a commercial or residential
241 building located in its jurisdiction within three-fourths of a
242 mile of the proposed development or three stories, whichever is
243 higher. The term "highest currently allowed" in this paragraph
244 includes the maximum height allowed for any building in a zoning
245 district irrespective of any conditions.

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

247 1. "Commercial use" means activities associated with the
248 sale, rental, or distribution of products or the performance of
249 services related thereto. The term includes, but is not limited
250 to, such uses or activities as retail sales; wholesale sales;
251 rentals of equipment, goods, or products; offices; restaurants;
252 public lodging establishments as described in s. 509.242(1)(a);
253 food service vendors; sports arenas; theaters; tourist
254 attractions; and other for-profit business activities. A parcel
255 zoned to permit such uses by right without the requirement to
256 obtain a variance or waiver is considered commercial use for the
257 purposes of this section, irrespective of the local land
258 development regulation's listed category or title. The term does
259 not include home-based businesses or cottage food operations
260 undertaken on residential property, public lodging
261 establishments as described in s. 509.242(1)(c), or uses that

38-01065A-26

20261548

262 are accessory, ancillary, incidental to the allowable uses, or
263 allowed only on a temporary basis. Recreational uses, such as
264 golf courses, tennis courts, swimming pools, and clubhouses,
265 within an area designated for residential use are not commercial
266 use, irrespective of how they are operated. Farms and farm
267 operations as those terms are defined in s. 823.14(3) and uses
268 associated therewith, including the packaging and sale of
269 products raised on the premises, are not commercial use.

270 2. "Industrial use" means activities associated with the
271 manufacture, assembly, processing, or storage of products or the
272 performance of services related thereto. The term includes, but
273 is not limited to, such uses or activities as automobile
274 manufacturing or repair, boat manufacturing or repair, junk
275 yards, meat packing facilities, citrus processing and packing
276 facilities, produce processing and packing facilities,
277 electrical generating plants, water treatment plants, sewage
278 treatment plants, and solid waste disposal sites. A parcel zoned
279 to permit such uses by right without the requirement to obtain a
280 variance or waiver is considered industrial use for the purposes
281 of this section, irrespective of the local land development
282 regulation's listed category or title. The term does not include
283 uses that are accessory, ancillary, incidental to the allowable
284 uses, or allowed only on a temporary basis. Recreational uses,
285 such as golf courses, tennis courts, swimming pools, and
286 clubhouses, within an area designated for residential use are
287 not industrial use, irrespective of how they are operated. Farms
288 and farm operations as those terms are defined in s. 823.14(3)
289 and uses associated therewith, including the packaging and sale
290 of products raised on the premises, are not industrial use.

38-01065A-26

20261548

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

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

301 Section 3. An applicant for a proposed development
302 authorized under s. 125.01055(7), Florida Statutes, or s.
303 166.04151(7), Florida Statutes, who submitted an application, a
304 written request, or a notice of intent to use such provisions to
305 the county or municipality and which application, written
306 request, or notice of intent has been received by the county or
307 municipality, as applicable, before July 1, 2026, may notify the
308 county or municipality by July 1, 2026, of its intent to proceed
309 under the provisions of s. 125.01055(7), Florida Statutes, or s.
310 166.04151(7), Florida Statutes, as they existed at the time of
311 submittal. A county or municipality, as applicable, shall allow
312 an applicant who submitted such an application, written request,
313 or notice of intent before July 1, 2026, the opportunity to
314 submit a revised application, written request, or notice of
315 intent to account for the changes made by this act.

316 Section 4. Subsection (5) of section 333.03, Florida
317 Statutes, is amended to read:

318 333.03 Requirement to adopt airport zoning regulations.—

319 (5) Sections 125.01055(7) and 166.04151(7) do not apply to

38-01065A-26

20261548

320 any of the following, unless the respective application is
321 approved by the governing body of the airport:

322 (a) A proposed development near a runway within one-quarter
323 of a mile laterally from the runway edge and within an area that
324 is the width of one-quarter of a mile extending at right angles
325 from the end of the runway for a distance of 10,000 feet of any
326 existing airport runway or planned airport runway identified in
327 the local government's airport master plan.

328 (b) A proposed development within any airport noise zone
329 identified in the federal land use compatibility table or in a
330 land-use zoning or airport noise regulation adopted by the local
331 government.

332 (c) A proposed development that exceeds maximum height
333 restrictions identified in the political subdivision's airport
334 zoning regulation adopted pursuant to this section.

335 Section 5. Subsection (8) of section 760.22, Florida
336 Statutes, is amended to read:

337 760.22 Definitions.—As used in ss. 760.20-760.37, the term:

338 (8) "Person" includes one or more individuals,
339 corporations, partnerships, associations, labor organizations,
340 legal representatives, mutual companies, joint-stock companies,
341 trusts, unincorporated organizations, trustees, trustees in
342 bankruptcy, receivers, and fiduciaries, agencies, governmental
343 entities, and other legal or commercial entities.

344 Section 6. Section 760.26, Florida Statutes, is amended to
345 read:

346 760.26 Prohibited discrimination in land use decisions and
347 in permitting of development.—It is unlawful to discriminate in
348 land use decisions or in the permitting of development based on

38-01065A-26

20261548

349 race, color, national origin, sex, disability, familial status,
350 or religion, or, except as otherwise provided by law, based on
351 the source of financing of a development or proposed
352 development, including, but not limited to, financing of a
353 development or on a proposed development for housing that is
354 affordable as defined in s. 420.0004.

355 Section 7. Subsection (4) of section 760.35, Florida
356 Statutes, is amended to read:

357 760.35 Civil actions and relief; administrative
358 procedures.—

359 (4) If the court finds that a person has engaged in a
360 discriminatory housing practice ~~has occurred~~, it must shall
361 issue an order prohibiting the practice and providing
362 affirmative relief from the effects of the practice, including
363 injunctive and other equitable relief, actual and punitive
364 damages, and reasonable attorney fees and costs. In accordance
365 with s. 13, Art. X of the State Constitution, the state, for
366 itself and its agencies or political subdivisions, waives
367 sovereign immunity for a cause of action based upon the
368 application of this section. Such waiver is limited only to
369 actions brought under this section.

370 Section 8. This act shall take effect July 1, 2026.