

## FLORIDA HOUSING FINANCE CORPORATION

### Tax Incentive Programs under the Live Local Act July 11, 2023, 10:00 a.m., Eastern Time

The Workshop will be held at the Florida Housing Finance Corporation office and via Webinar. Registration for Webinar is required. Registration information is available on the Live Local Act, Multifamily Middle Market Certification Webpage (<https://www.floridahousing.org/live-local-act/multifamily-middle-market-certification>)\*

#### Overview

##### **A. Introductions**

##### **B. Purpose of Workshop**

This workshop will review and discuss the various tax incentive programs authorized by the Florida Legislature under the Live Local Act of 2023. The Live Local Act created/modified multiple tax incentives for affordable housing.

We will highlight various tax incentive programs but focus discussion on tax incentive programs within the act that directly involve Florida Housing Finance Corporation (Florida Housing). We will solicit feedback on the Multifamily Middle Market Certification that will be administered by Florida Housing.

#### Tax Incentive Programs

##### **A. Non-Florida Housing-Related Tax Incentives**

###### **1. Community Contribution Tax Credit**

Increased the eligible state credits to \$25 million for the program during a Fiscal Year.

###### **2. Nonprofit Land Use Ad Valorem Exemption**

Modifies s. 196.1978(1)(b), F.S., which exempts land owned by nonprofits that is used for affordable housing from ad valorem taxes.

###### **3. Local Government Tax Exemption Ordinance**

Creates s. 196.1979, F.S. which allows counties and municipalities to create an ad valorem tax exemption for properties that set aside affordable housing.

##### **B. Florida Housing-Related Tax Incentives**

###### **1. Sales Tax Refund on Building Materials Used to Create Affordable Housing**

Creates s. 212.08(5)(v), F.S. permitting the refund of up to \$5,000 for sales tax paid on building materials used in the construction of affordable housing units. Eligible properties must have a land use restriction agreement with Florida Housing. Interested properties must file an application with the Department of Revenue.

Municipalities, counties, non-profit or other governmental entity are eligible if building materials for “affordable housing developments” are paid for by community development block grant, the State Housing Initiatives Partnership Program, or a similar grant.

Sales tax exemption does not apply to plants, landscaping, fencing and hardscaping.

Units must be “newly constructed” and “substantially completed” to apply for reimbursement.

Newly constructed is defined, as it applies to this section, as *“improvements to real property which did not previously exist or the construction of a new improvement where an old improvement was removed.”*

Substantially completed means *“that the improvement or some self-sufficient unit within it can be used for the purpose for which it was constructed.”*

Sales tax reimbursements can be filed for purchases made after July 1, 2023 and must be filed within 6 months of substantial completion, or prior to November 1 each year, whichever is sooner.

## 2. Live Local Tax Credit Contribution

A separate workshop for this program was held June 22, 2023. Information about this can be found on the Florida Housing website at <https://www.floridahousing.org/live-local-act/live-local-corporate-tax-credit-program>.

## 3. Multifamily Middle Market Certification and the Associated Exemption

The Live Local Act creates s. 196.1978 (3), F.S., which establishes an ad valorem tax exemption program for “newly constructed” multi-family properties. The exemption provides owners of eligible properties the opportunity for an ad valorem property tax exemption, beginning in 2024. Applications for the exemption made to the local property appraiser must include a certification notice. Florida Housing will issue certification notices for properties that meet the criteria established in this subsection.

This certification, while *not* a final determination of the ad valorem tax exemption, is a required element in the property tax exemption application process. The tax exemption application made to local property appraisers must be accompanied by a Florida Housing certification notice along with other forms/documentation. Whether an exemption is granted is at the purview of the local property appraiser.

Properties that provide more than 70 units of affordable housing to income eligible persons/families for a minimum of three years may qualify for a 75% or 100% tax exemption. Properties under consideration must meet the eligibility requirements as of January 1 of the year for which the exemption is being applied. The rent for these units must be the lesser of the most recent Florida Housing posted rent rates, or 90% of the market rent found in the required rental market study.

- *Are within a newly constructed multifamily project that contains more than 70 units dedicated to housing natural persons or families meeting the income limitations provided in paragraph (d). [lines 705-708]*
- *Qualified property used to house natural persons or families whose annual household income is greater than 80 percent but not more than 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area or, if not within a metropolitan statistical area, within the county in which the person or family resides, must receive an ad valorem property tax exemption of 75 percent of the assessed value. [lines 724-731]*
- *Qualified property used to house natural persons or families whose annual household income does not exceed 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area or, if not within a metropolitan statistical area, within the county in which the person or family resides, is exempt from ad valorem property taxes. [lines 732-738]*
- *Are rented for an amount that does not exceed the amount as specified by the most recent multifamily rental programs income and rent limit chart posted by the corporation and derived from the Multifamily Tax Subsidy Projects Income Limits published by the United States Department of Housing and Urban Development or 90 percent of the fair market value rent as*

*determined by a rental market study meeting the requirements of paragraph (m), whichever is less. [lines 709-716]*

Rental rates and income requirements can be found on Florida Housing site located here <https://www.floridahousing.org/live-local-act/missing-middle-ad-valorem-property-tax-exemption-certification>.

Florida Housing is creating an online portal for certification submissions and will review these submissions and determine if a certification can be issued for a property. As part of each certification, the property owner must provide the required information in the online portal.

- *The most recently completed rental market study meeting the requirements of paragraph (m).*
  - *A rental market study submitted as required by paragraph (f) must identify the fair market value rent of each unit for which a property owner seeks an exemption. Only a certified general appraiser as defined in s. 475.611 may issue a rental market study. The certified general appraiser must be independent of the property owner who requests the rental market study. In preparing the rental market study, a certified general appraiser shall comply with the standards of professional practice pursuant to part II of chapter 475 and use comparable property within the same geographic area and of the same type as the property for which the exemption is sought. A rental market study must have been completed within 3 years before submission of the application.*
- *A list of the units for which the property owner seeks an exemption.*
- *The rent amount received by the property owner for each unit for which the property owner seeks an exemption. If a unit is vacant and qualifies for an exemption under paragraph (c), the property owner must provide evidence of the published rent amount for each vacant unit.*
- *A sworn statement, under penalty of perjury, from the applicant restricting the property for a period of not less than three years to housing persons or families who meet the income limitations under this subsection.*

Florida Housing will review certification submissions through the online portal to determine if the above criteria are met. If a property is certified, a notice will be sent to both the property appraiser and the applicant by Florida Housing. If a property is not certified a notice will be sent to the owner along with the reason(s). Submissions to the online portal will be given an established cure period, which will allow Florida Housing staff time to make final certificate determinations and give property owners time to collect all documentation for submission to the local property appraiser by March 1 of each year.

Owners must demonstrate that the units in which an exemption is sought meet the statutory eligibility requirements for their local property appraisers to receive an exemption. Units which are currently subject to a land use restriction per chapter 420 or properties that are exempt through statute 196.1979 are not eligible to receive an exemption through this subsection.

**Appendix 1: Section 8, F.S. 196.1978 subsection 3**

(3)(a) As used in this subsection, the term:

1. "Corporation" means the Florida Housing Finance Corporation.
2. "Newly constructed" means an improvement to real property which was substantially completed within 5 years before the date of an applicant's first submission of a request for certification or an application for an exemption pursuant to this section, whichever is earlier.
3. "Substantially completed" has the same meaning as in s. 192.042(1).

(b) Notwithstanding ss. 196.195 and 196.196, portions of property in a multifamily project are considered property used for a charitable purpose and are eligible to receive an ad valorem property tax exemption if such portions:

1. Provide affordable housing to natural persons or families meeting the income limitations provided in paragraph (d);
2. Are within a newly constructed multifamily project that contains more than 70 units dedicated to housing natural persons or families meeting the income limitations provided in paragraph (d); and
3. Are rented for an amount that does not exceed the amount as specified by the most recent multifamily rental programs income and rent limit chart posted by the corporation and derived from the Multifamily Tax Subsidy Projects Income Limits published by the United States Department of Housing and Urban Development or 90 percent of the fair market value rent as determined by a rental market study meeting the requirements of paragraph (m), whichever is less.

(c) If a unit that in the previous year qualified for the exemption under this subsection and was occupied by a tenant is vacant on January 1, the vacant unit is eligible for the exemption if the use of the unit is restricted to providing affordable housing that would otherwise meet the requirements of this subsection and a reasonable effort is made to lease the unit to eligible persons or families.

(d)1. Qualified property used to house natural persons or families whose annual household income is greater than 80 percent but not more than 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area or, if not within a metropolitan statistical area, within the county in which the person or family resides, must receive an ad valorem property tax exemption of 75 percent of the assessed value.

2. Qualified property used to house natural persons or families whose annual household income does not exceed 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area or, if not within a metropolitan statistical area, within the county in which the person or family resides, is exempt from ad valorem property taxes.

(e) To receive an exemption under this subsection, a property owner must apply on a form prescribed by the department by March 1 for the exemption, accompanied by a certification notice from the corporation to the property appraiser.

(f) To receive a certification notice, a property owner must submit a request to the corporation for certification on a form provided by the corporation which includes all of the following:

- 1) The most recently completed rental market study meeting the requirements of paragraph (m).
2. A list of the units for which the property owner seeks an exemption.
3. The rent amount received by the property owner for each unit for which the property owner seeks an exemption. If a unit is vacant and qualifies for an exemption under paragraph (c), the property owner must provide evidence of the published rent amount for each vacant unit.
4. A sworn statement, under penalty of perjury, from the applicant restricting the property for a period of not less than 3 years to housing persons or families who meet the income limitations under this subsection.

(g) The corporation shall review the request for certification and certify property that meets the eligibility criteria of this subsection. A determination by the corporation regarding a request for certification does not constitute final agency action pursuant to chapter 120.

1. If the corporation determines that the property meets the eligibility criteria for an exemption under this subsection, the corporation must send a certification notice to the property owner and the property appraiser.

2. If the corporation determines that the property does not meet the eligibility criteria, the corporation must notify the property owner and include the reasons for such determination.

(h) The corporation shall post on its website the deadline to submit a request for certification. The deadline must allow adequate time for a property owner to submit a timely application for exemption to the property appraiser.

(i) The property appraiser shall review the application and determine if the applicant is entitled to an exemption. A property appraiser may grant an exemption only for a property for which the corporation has issued a certification notice.

(j) If the property appraiser determines that for any year during the immediately previous 10 years a person who was not entitled to an exemption under this subsection was granted such an exemption, the property appraiser must serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person in the county, and that property must be identified in the notice of tax lien. Any property owned by the taxpayer and situated in this state is subject to the taxes exempted by the improper exemption, plus a penalty of 50 percent of the unpaid taxes for each year and interest at a rate of 15 percent per annum. If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the property owner improperly receiving the exemption may not be assessed a penalty or interest.

(k) Units subject to an agreement with the corporation pursuant to chapter 420 recorded in the official records of the county in which the property is located to provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004 are not eligible for this exemption.

(l) Property receiving an exemption pursuant to s. 196.1979 is not eligible for this exemption.

(m) A rental market study submitted as required by paragraph (f) must identify the fair market value rent of each unit for which a property owner seeks an exemption. Only a certified general appraiser as defined in s. 475.611 may issue a rental market study. The certified general appraiser must be independent of the property owner who requests the rental market study. In preparing the rental market study, a certified general appraiser shall comply with the standards of professional practice pursuant to part II of chapter 475 and use comparable property within the same geographic area and of the same type as the property for which the exemption is sought. A rental market study must have been completed within 3 years before submission of the application.

(n) The corporation may adopt rules to implement this section.

(o) This subsection first applies to the 2024 tax roll and is repealed December 31, 2059.