FLORIDA SENATE BILL 102 PROVIDES DEVELOPERS AND EXISTING MULTIFAMILY OWNERS NEW AVENUES FOR PROPERTY TAX EXEMPTIONS AND TAX CREDITS IN AFFORDABLE HOUSING

The "Missing Middle" (Section 8 of SB 102)
Affordable housing developers shall receive what is being commonly referred to as a "missing middle" ad valorem tax exemption for portions of a multifamily project up to:

- 75% of the assessed value if the project provides housing to natural persons or families whose annual household income is greater than 80% but no more than 120% of area median income (AMI), or
- 100% of the assessed value if the project provides housing to natural persons or families whose annual household income does not exceed 80% of AMI.

Qualifications

- Project must be "newly constructed," meaning that the improvements were substantially completed within five years before the earlier of 1) the date of an applicant's first submission of a request of certification, or 2) an application for an ad valorem exemption.
- Project must contain more than 70 units dedicated to persons or households whose household incomes do not exceed 120% of AMI.
- Units must not be subject to an agreement with the Florida Housing Finance Corporation (FHFC).
- Cannot be used with Section 9 of the SB 102 exemption as detailed below.

To receive an exemption, the property owner must apply to the FHFC to receive a certification notice that will be sent with an application form and required documents to the property appraiser. The application requires several documents, including, but not limited to, a rental market study (completed within three years before the submission) and the rent received for each unit for which the property owner is requesting the exemption. The property owner must submit the application form and certification notice from the FHFC to the property appraiser by March 1. If granted, the exemption will first apply to the 2024 tax roll and sunsets on December 31, 2059. This means all developers will receive a property tax exemption on the portions of their properties used for affordable housing if their properties qualify, including market rate developers.

Affordable Housing Property Tax Exemption (Section 9 of SB 102)
This exemption allows counties and municipalities to adopt an ordinance to exempt qualifying portions of a property from ad valorem taxes up to:

- 75% of the assessed value of each residential unit used to provide affordable housing if less than 100% of the multifamily project's units provide affordable housing, or
- 100% of the assessed value of each residential unit used to provide affordable housing if 100% of the multifamily project's units provide affordable housing.

Qualifications

- Used to house persons or families whose annual income is greater than 30% but no more than 60% of AMI.
- Must contain more than 50 residential units of which at least 20% will be used to provide affordable housing.
- Units must be rented for the lesser of 1) an amount that does not exceed the amounts specified by the most recent multifamily rental program income and rental limit chart posted by FHFC [derived from Housing and Urban Development (HUD)], or 2) 10% below the market rate of the required rental market study.
- The property must not have been cited for three code violations in the preceding 24 months and must not have outstanding code violations or related fines before final determination on a property's qualification.

To receive an exemption, the property owner must apply for certification to a local entity under the supervision of the board of county commissioners or governing body of a municipality to receive the exemption. The certification application requires several documents, including, but not limited to, a rental market study (completed within three years before the submission) and the rent received for each unit for which the property owner receives the exemption. The local entity must verify the information submitted to it and provide a certification of qualification that will be forwarded to the property owner and the property appraiser.

The property owner must submit the certification documents and certification notice from the local entity to the property appraiser by March 1. Note that the exemption is still applicable if a unit qualified in a previous year for an exemption but is vacant on January 1 of the tax year or remains held for occupancy by a qualifying tenant and a reasonable effort is being made to lease such unit to an eligible person or family.

If granted, the exemption will first apply to the 2024 tax roll, with no expiration date, although each ordinance must expire before the fourth January 1 after adoption. The local government may renew the ordinance. This will allow a local government to adopt a property tax exemption for affordable housing, including market rate developments.

Building Materials Sales Tax Refund (Section 12 of SB 102)
The building materials sales tax refund allows an owner of an affordable housing development to receive a refund of sales tax paid on building materials used in construction of the development, provided the construction materials were purchased on or after July 1, 2023, and the following requirements are met:

- Newly constructed means improvements to the property that did not previously exist or construction of new improvements where the prior development was completely removed.
- This excludes renovations, rehabilitations, expansion, etc. from eligibility.

To receive the refund, the property owner must apply with the Florida Department of Revenue (DOR) within six months after the eligible residential units are deemed to be substantially complete by the respective city code inspector or by November 1 after the improvements have been enrolled to the tax roll by the property appraiser's office. Once the application is approved, the refund will range from a minimum of $500 per unit up to $5,000 per unit or 97.5% of the Florida sales and use tax paid on the cost of building materials. The refund will be issued 30 days after the DOR approves the refund application. The local tax experts at Ryan will continue to monitor this issue and work with clients to implement a comprehensive range of proactive strategies designed to address future reassessments and tax mitigation strategies.

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For additional information
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