



Florida's Live Local Act— An Admirable Vision Meets Reality

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By Raul Gastesi | September 09, 2024 at 06:00 AM

In the heart of Miami, the Wynwood neighborhood shines as a success story of urban development. Once an industrial area, Wynwood has transformed itself from warehouses and factories to a street-art-laden hub for creativity and innovation. Wynwood's coffee shops, art galleries, vibrant bars, and cafes have attracted locals, tourists, and a community of entrepreneurs. Soon, though, the Wynwood neighborhood will see another significant transformation—one that will alter its appearance and strain the infrastructure and economic opportunities of this cultural hotspot.

Wynwood is one of many neighborhoods in South Florida that will face difficult challenges due to Florida's Live Local Act, which statutorily usurps local government regulation of land use in favor of workforce housing and allows developers to obtain expedited approvals of projects that may exceed local zoning laws. For instance, pursuant to Florida's Live Local Act, developers are currently planning a 48-story residential tower in the Wynwood neighborhood, where the tallest building fails to surpass 12 stories. Local governments, which must provide municipal services such as transportation infrastructure, public safety, emergency services, and public education, will be fiscally strained by an unabated residential growth that will test local government's ability to manage and meet its obligations.

Without additional recourse for municipalities to help regulate development, the Live Local Act may reshape South Florida in potentially irreparable ways.

Background of the Live Local Act

The Live Local Act, which was originally signed into law on March 29, 2023, was crafted with a bold vision: to tackle Florida's escalating workforce housing crisis by spurring development, reducing rents, via tax breaks and decreasing red tape for workforce housing developers. The act won bipartisan support and was hailed as a forward-thinking solution that would override restrictive local zoning laws and open new avenues for affordable housing development.

Like many states, Florida has a significant shortage of affordable housing. From 2012 to 2022, the state lost nearly 292,000 units with rents of \$1,200 or less. At its core, the Live Local Act is designed to

transform commercial and industrial zones into thriving residential communities by allowing taller, denser multi-use buildings that can accommodate more workforce residents. State officials lauded the act, highlighting its potential to make Florida more business-friendly while addressing the urgent need for affordable housing.

However, as the Wynwood project illustrates, the reality of implementing sweeping changes to local government land-use planning and regulation will be far more complex. The act and its amendments, intended to create opportunities and address workforce housing concerns, will face challenges brought by local governments as they struggle to regulate their future land-use plan and allocate sufficient resource for the unmanaged growth imposed by state legislation, as unintended consequences of the act's passage continue to breed.

From Vision to Friction: The Development of the Live Local Act

As the act came into force, it quickly became apparent that its broad-brush, top-down approach to zoning and development had significant implications.

The core conflict has come from the preemption of local government authority to enforce zoning regulations. This preemption means that developers can take over existing properties, such as industrial or commercial sites, which can be retail strip malls, parking lots and parking garages, and develop them into much taller multi-use structures for workforce housing by foregoing many local zoning codes. For instance, developers can increase the housing density beyond local restrictions, reduce or eliminate parking requirements, and relax setback requirements. Additionally, local residents' opportunity to participate in the quasi-judicial application process has been completely usurped by the act. Once an application is submitted by approval pursuant to the act, the application must be expeditiously reviewed and approved administratively.

While these developments may serve to increase the desperately short supply of affordable housing, local municipalities, as well as current and future residents, will face a myriad of challenges that go well beyond altering the aesthetic character of South Florida neighborhoods.

For a neighborhood to function and thrive, it requires much more extensive infrastructure than an industrial or commercial area. Many of the proposed developments under the Live Local Act will be placed in areas that do not have sufficient sidewalks, green areas, and sewers. The sites generally lack sufficient school capacity, police patrols, or health services. And the looming traffic congestion will test the patience of residents and business owners. These unintended consequences may even cause potential residents and business owners to reconsider where they settle down or open their doors.

The Strain on Local Governments

Beyond the immediate concerns of overdevelopment, the Live Local Act has placed a significant burden on local governments:

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- **Limited Resources:** Municipalities, already facing revenue challenges, now face the additional challenge of managing the act's unintended consequences. The requirement to permit residential development in industrial or commercial zones often comes without the necessary infrastructure, such as roads, parks, and utilities, to support these new communities.
- **State Preemption:** The act's preemption of local zoning authority has led to frustration among local officials, who find themselves powerless to reject projects that may conflict with community needs. This has resulted in delays and complications in the approval process, as officials grapple with problematic developments that they legally cannot deny.
- **Oversized Developments:** The act has enabled developers to build projects significantly out of scale with their surroundings, creating tensions with local communities and making areas less attractive for investment or relocation. The Wynwood project's design is a prime example of the disconnect between state policy and local expectations.
- **Revenue Concerns:** Perhaps most concerning for local governments is the financial impact. By allowing developers to bypass local zoning restrictions and qualify for a 75%-100% property tax exemption on their qualified project units, the Live Local Act threatens to reduce municipal revenue, limiting resources when more resources are needed.

In response to the growing discontent, state officials proposed and passed amendments to the act, which were signed into law by Gov. Ron DeSantis on May 16, 2024. These amendments aim to impose additional restrictions on industrial land, particularly waterfront properties, and reintroduce height limitations for buildings adjacent to single-family neighborhoods to address the many concerns municipalities posed, but do not go far enough to redress the specific challenges municipalities are facing on their own.

Data suggests that these amendments could also lead to a significant reduction in sites available for affordable housing development across Florida's largest metropolitan areas. This potential reduction threatens to undermine the very goals the Live Local Act was designed to achieve.

The Future of the Live Local Act

To ensure the success of the Live Local Act while addressing the growing concerns of local municipalities, future legislation should strongly consider mechanisms that allow for greater municipal input in development decisions. Local governments should have the authority to impose additional requirements that align with community needs, such as ensuring adequate infrastructure, transportation resources, green spaces, and other public services before approving new projects. These mechanisms could include conditional approvals that require developers to invest in necessary infrastructure upgrades or contribute to community amenities. By balancing state-level goals with local expertise and priorities, Florida can create a more sustainable and equitable approach to addressing the housing crisis without sacrificing municipalities' autonomy over the goals and aspirations of their residents and community members.

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