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MIAMI-DADE COUNTY

Florida House passes bill that could stop cities from requiring affordable housing

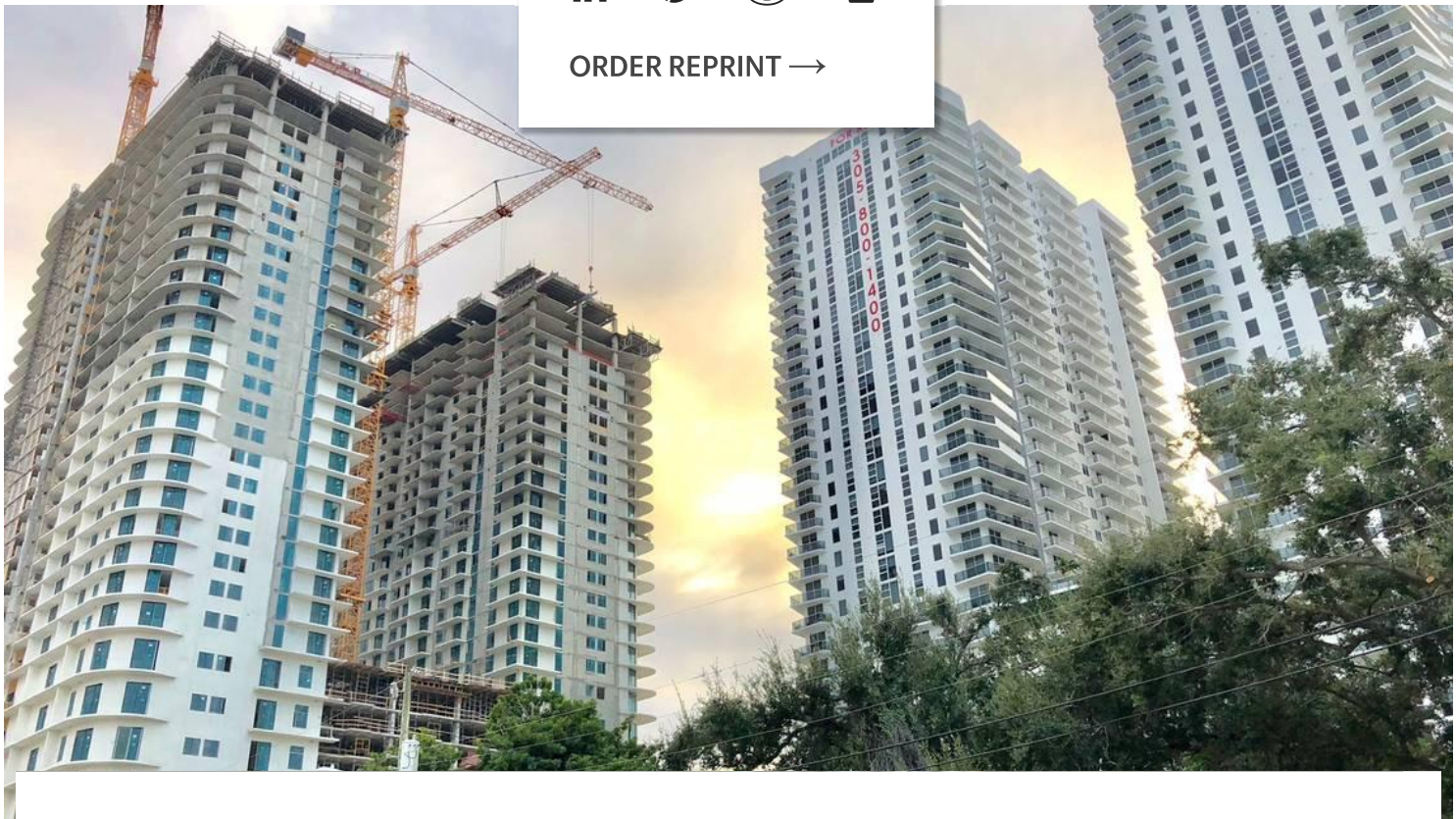
BY ELIZABETH KOH, RENE RODRIGUEZ, AND JOEY FLECHAS

APRIL 27, 2019 06:30 AM, UPDATED APRIL 29, 2019 08:45 AM



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In late 2018, Miami commissioners for the first time passed a ordinance that requires developers in a small 30-block area north of downtown to [set aside a percentage of units for residents with low incomes](#), a measure that was seen by advocates as a small but crucial step toward addressing Miami's housing affordability crisis.

The measure's sponsor, Commissioner Ken Russell, believes the concept could be expanded if successful on a small scale. But if a bill moving through the Florida Legislature passes, the city's first mandatory inclusionary zoning law might be its last.

House lawmakers voted largely on party lines Thursday to place limits on local governments' ability to set ceilings for rents or home sale prices, despite concerns from some Democrats that the move could imperil mandatory affordable housing requirements that counties and municipalities can enact now.

[HB 7103](#), which passed on a 72-37 vote, would preempt local governments from establishing their own rules on a number of development-related issues that could affect housing prices and cities' ability to spend building fees and shorten the window of time the public has to review new construction projects.

The bill's sponsor, Rep. Jason Fischer, R-Jacksonville, told Jacksonville radio station WJCT that he believes rent and price controls lead to higher prices, [making more housing unaffordable](#).

"The underlying belief though is that in the marketplace, people should be able to voluntary exchange and when you start having mandates and [the] state setting price controls, you create all kinds of distortions in the market," he told WJCT earlier this month.

Fischer's proposal is part of conservative lawmakers' broader focus on preempting local governments' powers, among the priorities of House Speaker Jose Oliva, R-Miami Lakes.

The bill would also prohibit local governments from establishing a maximum rent or sale price for homes as is done for affordable housing, and it adds a series of restrictions on a municipality's ability to mandate such price-controlled housing units be set aside for any particular group of people. The bill contains other provisions that would set restrictions on impact fees tied to building permits and reduce the time period departments have to review a permit application from 30 days to five.

A similar companion bill in the Senate has passed through all relevant committees but has not yet been scheduled for a floor vote.

Among a series of bills rapidly taken up by the House Thursday, the measure passed with little debate. Rep. Joe Geller, D-Aventura, urged other lawmakers to vote against the bill.

Some Democrats had raised questions on Wednesday night, when the bill was positioned for a House floor vote, about how the legislation might affect affordable funding.

Fischer cast the legislation as expanding cities' toolkits.

“What we are saying is [cities] can enter into voluntary agreements. They can provide incentives. They have a plethora of things,” he said, in response to a question from Rep. Anna Eskamani, D-Orlando. “They just can't use the abusive power of government to mandate it.”

Fischer returned repeatedly to the option of incentive programs, which are explicitly allowed under the bill.

In Miami, Russell pushed for the mandatory affordable units by giving developers more density to offset the lower revenue from units set aside for people in lower income categories. He argues the bill limits the menu of options for local governments to tackle the affordability problem.

“I see this legislation as an overreach of the state government trying to preempt home rule of municipalities and protect developers with a broad statewide blanket,” Russell said. “Every city is different, and the crisis that is facing Miami should be dealt with by the municipal legislators who are elected locally and have the purview to change zoning laws.”



Miami Commissioner Ken Russell Joey Flechas JFLECHAS@MIAMIHERALD.COM

A spokesman for Miami said city administrators are tracking the bill and actively opposing it, though the city's planning and legal departments are still analyzing the bill's potential impacts. Planning Director Francisco Garcia said the city believes that under the proposed law, developers would still be able to voluntarily offer income-restricted units in exchange for more buildable density.

County officials are watching closely, too. Miami-Dade administrators think the law would eliminate a county program requiring below-market housing pricing on developments built on county property around Metrorail stations. Some county zoning laws require at least 12.5 percent of units in "rapid transit" zones be priced for "workforce housing" buyers — people making up to 140 percent of the median income for Miami-Dade.

"We're definitely tracking this legislation," Miami-Dade zoning director Nathan Kogon said Thursday.

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Alana Greer, an attorney and co-founder of the Community Justice Project, sees problems with the bill. She said the amended version that passed the House uses language so broad that it could hamper a range of affordable housing projects.

“The way this bill has been drafted would unintentionally bar almost all other efforts to produce affordable housing, including public land and public dollars,” said Greer, whose organization is a nonprofit group of lawyers working with grassroots groups in low-income communities of color.



Problems with a contractor performing renovations at the Civic Towers in Allapattah have led to delays and frustrated affordable housing tenants living in a construction zone.

By Emily Michot

As an example, Greer said that if the city solicited bids for affordable housing on city land, a development permit would theoretically trigger this law and invalidate the solicitation.

Some experts argue that inclusionary zoning laws have produced mixed results in other parts of the country. A study by the Economic Research Organization at the University of Hawaii concluded [that the mandatory regulations had a negative effect on Oahu](#) — another city struggling with a severe affordability crisis — resulting in fewer affordable housing units and raising the prices of market-rate units.

“The inclusionary zoning laws that this bill prohibits are perhaps well-intentioned,” said Matt Rieger, president and CEO of the Housing Trust Group, one of the largest affordable housing developers in Florida. “But practically speaking — as someone who is working every day to keep up with the tremendous demand in Florida for affordable housing — it’s not an effective tool for creating the volume of product we need to dig ourselves out of the current affordable housing crisis. Inclusionary zoning just does not move the needle much, if at all.”

Rieger echoed a lobbyist for the Florida Home Builders Association who testified in a House committee earlier this month.

“Mandated inclusionary zoning doesn’t work,” said lobbyist Kari Hebrank. Citing a Reason Foundation study of 13 cities in Southern California, she contended that such policies meant those areas actually ended up with less affordable housing because “it drives up the cost of market-ready housing.”

“People don’t move from their starter homes into their next homes, so the homes that would be affordable — the starter homes — don’t become available,” she said.

She added that local governments would also receive less property tax revenue with price controls in place: “Somebody has to pay for that. The costs get shifted, whether it’s the builder, the land developer or the local governments.”

Others argue that although inclusionary zoning requirements won’t solve the city’s affordability crisis on their own, there’s no harm in keeping them in play.



Annie Lord is executive director of Miami Homes for All. Photograph by Nick Garcia.

“Right now we’re at a crisis situation where we need all the tools we can possibly have,” said Annie Lord, executive director of Miami Homes For All, a nonprofit group that combats homelessness. “This bill takes one of those tools off the table. Inclusionary zoning is not a panacea. But in a lot of places, they can produce 200-300 units a year. That’s not nothing. There are strategic neighborhoods where the zoning could help with our housing needs.”

The bill would also impose a 30-day time limit for a county or municipality to review applications for developments or permit applications and issue procedures for addressing deficiencies. The bill reduces the time for building departments to review permit applications from 30 business days to five.

Housing advocates believe the shorter deadline would benefit developers of large real estate projects — at the cost of the communities surrounding them, who would have less time to scrutinize projects.

But some developers argue a speedier approval process reduces costs, which would translate to lower prices and rents.

“There are already time limits in the books that municipalities are supposed to adhere to,” said Jay Jacobson, president of Eden Multifamily, a real estate firm specializing in urban infill markets in South Florida. “You pay the building permit fees to the municipality. You pay a private provider to review your plan. You submit that plan and then the municipality sits on their ass and sends you a bunch of revisions on the last possible day. The longer it takes to get through the process, the more expensive the ultimate product costs.”

The bill also prohibits local governments from using funds generated by impact fees — pre-development costs used to improve roads, fire and police services, schools and parks services — on other projects or to pay off previous debts. Instead, the funds must be used directly toward the new construction.



Miami-Dade County and officials from Related Urban Development break ground during a ceremony to launch the redevelopment of the Liberty Square Rising project in Liberty City in May 2017. MATIAS J. OCNER

FOR THE MIAMI HERALD

Matt Allen, chief operating officer of The Related Group, Miami's biggest real estate developer, said he agrees that impact fees should be based on the "actual, direct impact" of the projects seeking permitting, and that legislation should work to increase funding and incentives for development of affordable and workforce housing.

"But any legislative action that supports this premise should also include concurrent efforts designed to increase funding and incentives for the development of affordable and workforce housing throughout the state," Allen said.

The bill had been opposed in committee stops by a host of groups representing local governments, including the League of Cities and the Florida Association of Counties. Groups representing home builders and community developers had indicated their support.

Some advocates believe laws and policies regarding housing should not be written at a state level. Henry Torres, president of the real estate development/management firm The Astor Companies, said Florida is a microcosm for the U.S., with prices varying so wildly from town to town that regulations need to be set by counties and municipalities.

"This kind of bill is detrimental to all the people who live in Florida, because something that works in Plant City, where you're going to pay \$1 per square foot in rent, won't work in Miami, where you're paying \$2.50-\$3 per square foot in rent," Torres said. "There are things we are required to do in Miami, like water and sewer improvements, that other cities may not require."

The House added three amendments, one technical, to the bill Wednesday and Thursday, including one that carved out an exception for the Florida Keys. Lawmakers also approved, with some debate, an amendment sponsored by Rep. Blaise Ingoglia, R-Spring Hill, that would bar local governments from charging for building inspections if a private provider is hired.

Herald staff writer Douglas Hanks contributed to this report.

 **COMMENTS** 