

# Florida's Affordable Housing **PROPERTY TAX EXEMPTIONS**

A quick guide for developers, policymakers, & advocates



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# FLORIDA'S AFFORDABLE HOUSING PROPERTY TAX EXEMPTIONS

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As of this writing in July 2024, four new affordable housing property tax exemptions have been enacted in state law in the past two Florida Legislative Sessions. This is in addition to the two affordable housing-related property tax exemptions that have already been in state law since 1999 and 2017, respectively. This quick guide summarizes the six affordable housing property tax exemptions that are available under Florida law.

The title of each exemption is the title given to each by the Florida Department of Revenue in Form DR-504AFH (except the 99-year Affordability Exemption for FHFC Funded Properties which is the most recent exemption and has not been added to Form DR-504AH at the time of this writing). This form is the application that property owners must use to receive an affordable housing property tax exemption.



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**AFFORDABLE HOUSING CATALYST PROGRAM**

This quick guide is made possible thanks to the support of the Florida Legislature and the Florida Housing Finance Corporation through the state's Affordable Housing Catalyst Program.



## Summary Table

| Name of Property Tax Exemption – Statutory Citation  | Year Enacted                   | Eligibility  | Property Tax Exemption Available  |
|--|--------------------------------|--|---|
| Affordable Housing Property Exemption for Non-Profit, section 501(c)(3) Qualified Owners – s. 196.1978(1)(a)       | 1999<br>(subsequently amended) | Portions of property owned entirely and operated by a 501(c)(3) to provide affordable housing to households ≤120% AMI.   | 100% exemption  |
| Affordable Housing Land Exemption for Non-Profit, section 501(c)(3) Qualified Owners – s. 196.1978(1)(b)           | 2023                           | Land owned entirely by a 501(c)(3) and leased for a period of 99 years to predominately provide affordable housing to households ≤120% AMI.  | 100% exemption on the value of the land only (not the improvements)   |
| Multifamily Project Exemption for Recorded Agreement with the Florida Housing Finance Corporation – s. 196.1978(2) | 2017<br>(subsequently amended) | Multifamily properties that 1) contain more than 70 units affordable to households at or below 80% AMI; 2) Be subject to a recorded agreement with FHFC (for FHFC funding)   | 100% exemption for the affordable units starting after the 15th completed year of the development   |
| Newly Constructed Multifamily Project Exemption – s. 196.1978(3)   | 2023                           | Newly constructed properties with more than 70 units affordable to households ≤120% AMI.   | A 75% exemption is available for the units in eligible developments that serve households from 80-120% AMI.<br><br>A 100% exemption is available for the units in eligible developments that serve households <80% AMI. |
| County & Municipal Affordable Housing Exemption on Multifamily Properties – s. 196.1979                            | 2023                           | Developments within a city or county that enacts the exemption that are 50 or more units that set aside at least 20% of the units as affordable to households ≤ 60% AMI.   | Up to a 100% exemption is available if 100% of the units are affordable to eligible households.<br><br>Up to a 75% exemption is available if less than 100% of units are affordable to eligible households.             |
| 99-year Affordability Exemption for FHFC Funded Properties – s. 196.1978(4)  | 2024                           | Multifamily properties that 1) contain more than 70 units affordable to households at or below 80% AMI; 2) Be subject to a recorded land use restriction agreement with FHFC (for FHFC funding) to keep the property affordable to households at or below 120% AMI for 99 years. | 100% exemption for the affordable units   |

## 1. AFFORDABLE HOUSING PROPERTY EXEMPTION FOR NON-PROFIT, SECTION 501(c)(3) QUALIFIED OWNERS – s. 196.1978(1)(a)

### Eligibility Criteria:

- Property must be used to provide affordable housing to eligible persons as defined by s. 159.603 and natural persons or families meeting the extremely-low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004.
- Property must be “owned entirely” by 501(c)(3) organization or a limited liability company under certain parameters.

**Property Tax Exemption Available:** 100% exemption for the portions of the affordable housing property used to provide housing to natural persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004.

### Additional Provisions:

- All property under this exemption must comply with the criteria provided under s. 196.195 for determining exempt status and applied by property appraisers on an annual basis.
- Units that are vacant and units that are occupied by natural persons or families whose income no longer meets the income limits of this subsection, but whose income met those income limits at the time they became tenants, shall be treated as portions of the affordable housing property exempt under this subsection if a recorded land use restriction agreement in favor of the Florida Housing Finance Corporation or any other governmental or quasi-governmental jurisdiction requires that all residential units within the property be used in a manner that qualifies for the exemption under this subsection and if the units are being offered for rent.
- Any property owned by a limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole member. If the sole member of the limited liability company that owns the property is also a limited liability company that is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii), the Legislature intends that the property be treated as owned by the sole member of the limited liability company that owns the limited liability company that owns the property.

## 2. AFFORDABLE HOUSING LAND EXEMPTION FOR NON-PROFIT, SECTION 501(c)(3) QUALIFIED OWNERS – s. 196.1978(1)(b)

### Eligibility Criteria:

- Land must be owned entirely by a 501(c)(3) organization and leased for a minimum of 99 years for the purpose of, and is predominantly used for, providing housing to natural persons or families meeting the extremely-low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004.
- Land is considered “predominantly used” for qualifying purposes if the square footage of the improvements on the land used to provide qualifying housing is greater than 50 percent of the square footage of all improvements on the land.

**Property Tax Exemption Available:** 100% exemption on the value of land only (improvements are not exempted).



### 3.

## MULTIFAMILY PROJECT EXEMPTION FOR RECORDED AGREEMENT WITH THE FLORIDA HOUSING FINANCE CORPORATION – s. 196.1978(2)

**Eligibility Criteria:** A multifamily project that:

- Contains more than more than 70 units that are used to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004; and
- Be subject to an agreement with the Florida Housing Finance Corporation recorded in the official records of the county in which the property is located to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004.

**Property Tax Exemption Available:** 100% exemption for the portions of the property used to provide affordable housing beginning with the January 1 assessment after the 15th completed year from the earliest of:

1. The effective date of the recorded agreement on those portions of the affordable housing property that provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004;
2. The first day of the first taxable year in which the property was placed in service as an affordable housing property that provides housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004; or
3. The date the property received a certificate of occupancy or a certificate of substantial completion, as applicable, allowing the property to be used as an affordable housing property that provides housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004.

### 4.

## NEWLY CONSTRUCTED MULTIFAMILY PROJECT EXEMPTION – s. 196.1978(3)

**Eligibility Criteria:**

- Property must be a “newly constructed” multifamily project and contain more than 70 units affordable to households at or below 120% AMI.  
“Newly constructed” is defined as 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 a certification notice pursuant to this subsection.”
- If the property is located in an area of critical state concern, the multifamily project only needs to contain more than 10 units affordable to households at or below 120% AMI.
- Must be 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 the governing statute, whichever is less.

**Ineligible Properties:**

- Units subject to an agreement with FHFC 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.
- Properties that receive the County & Municipal Affordable Housing Exemption on Multifamily Properties pursuant s. 196.1979 are ineligible for this exemption.

**Property Tax Exemption Available:** There are two tiers of property tax exemptions available under this exemption:

- A 75% exemption for the affordable units that serve households between 80-120% AMI
- A 100% exemption for the affordable units that serve households below 80% AMI

**Application Process:** As opposed to the three property tax exemptions above where a property owner needs to only file Form DR-504AFH with their local property appraiser, this exemption has a two-step application process as follows:

### 1. Florida Housing Finance Corporation

- First, property owners must apply to the Florida Housing Finance Corporation (FHFC) for a certification notice. The timeline to apply will be around September to December of each year.
- FHFC is responsible for accepting applications and must require property owners to provide:
  1. A rental market study that meets the requirements of s. 196.1978(3)(l).
  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, 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.
- See FHFC's website for more information on what is included in the application for a certification notice.

### 2. Local County Property Appraiser

- If a property owner is approved for a certification notice by FHFC, the property owner must then formally apply for the exemption using Form DR 504-AFH accompanied by the certification notice with their local county property appraiser by March 1 of the tax year.
- Each county property appraiser has the authority to request and review additional information necessary to determine whether the property owner is eligible.

**Ability for Eligible Taxing Authorities to Opt-Out of the 80-120% AMI Exemption:** In the 2024 Legislative Session, the Legislature passed a provision (codified at s. 196.1978(3)(o) of the Florida Statutes) which allows eligible taxing authorities to opt-out of the 80-120% AMI exemption. A taxing authority is eligible to opt-out if:

- The taxing authority is located in a county where the number of affordable/available units for 0-120% AMI is greater than the number of renter households at that income level as determined by the most recently published Shimberg Center for Housing Studies Annual Report; and
- The governing body of the taxing authority votes by a 2/3 majority to "opt-out" by January 1 of the applicable tax year.

The opt-out only applies to the property taxes of the specific taxing authority that opts out and property owners that initially received the exemption initially can continue applying for and receiving it regardless of if their applicable taxing authority(ies) opt out at a later date. The opt-out may be renewed annually by January 1. To renew the opt-out, the taxing authority must continue to meet the eligibility criteria as outlined above.

## 5.

## COUNTY & MUNICIPAL AFFORDABLE HOUSING EXEMPTION ON MULTIFAMILY PROPERTIES – s. 196.1979

**Eligibility Criteria:** Property within a county or municipality that adopts the exemption that meets the following criteria:

- Is a multifamily project containing 50 or more residential units, at least 20 percent of which are used to provide affordable housing to households at or below 60% AMI or below 30% AMI as directed by the local governing ordinance.
- Rented for an amount no greater than 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 subsection (4) of the governing statute, whichever is less.
- Has not been cited for code violations on three or more occasions in the 24 months before the submission of a tax exemption application
- Has not had any cited code violations that have not been properly remedied by the property owner before the submission of a tax exemption application
- Does not have any unpaid fines or charges relating to the cited code violations. Payment of unpaid fines or charges before a final determination on a property's qualification for an exemption under this section will not exclude such property from eligibility if the property otherwise complies with all other requirements for the exemption.

**Property Tax Exemption Available:** There are two tiers of property tax exemptions available under this exemption:

- A 100% exemption for the affordable units if 100% of the units are affordable to eligible households.
- A 75% exemption for the affordable units if less than 100% of the units are affordable to eligible households.

**Local Process to Adopt the Exemption:** S. 196.1979(3) spells out the process and requirements for a county or municipality to adopt this optional property tax exemption. An ordinance granting the exemption must:

- (a) Be adopted under the procedures for adoption of a nonemergency ordinance by a board of county commissioners specified in chapter 125 or by a municipal governing body specified in chapter 166.
- (b) Designate the local entity under the supervision of the board of county commissioners or governing body of a municipality which must develop, receive, and review applications for certification and develop notices of determination of eligibility.
- (c) Require the property owner to apply for certification by the local entity in order to receive the exemption. The application for certification must be on a form provided by the local entity designated pursuant to paragraph (b) and include all of the following:
  1. The most recently completed rental market study meeting the requirements of subsection (4).
  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 subsection (2), the property owner must provide evidence of the published rent amount for the vacant unit.
- (d) Require the local entity to verify and certify property that meets the requirements of the ordinance as qualified property and forward the certification to the property owner and the property appraiser. If the local entity denies the application for certification, it must notify the applicant and include reasons for the denial.

- (e) Require the eligible unit to meet the eligibility criteria of paragraph (1)(a).
- (f) Require the property owner to submit an application for exemption, on a form prescribed by the department, accompanied by the certification of qualified property, to the property appraiser no later than the deadline stated in 196.011.
- (g) Specify that the exemption applies only to the taxes levied by the unit of government granting the exemption.
- (h) Specify that the property may not receive an exemption authorized by this section after expiration or repeal of the ordinance.
- (i) Identify the percentage of the assessed value which is exempted, subject to the percentage limitations in paragraph (1)(b).
- (j) Identify whether the exemption applies to natural persons or families meeting the income limits of sub-subparagraph (1)(a)1.a., natural persons or families meeting the income limits of sub-subparagraph (1)(a)1.b., or both.
- (k) Require that the deadline to submit an application for certification be published on the county's or municipality's website. The deadline must allow adequate time for a property owner to make a timely application for exemption to the property appraiser.
- (l) Require the county or municipality to post on its website a list of properties receiving the exemption for the purpose of facilitating access to affordable housing.

### Additional Provisions:

An ordinance adopted under this section must expire before the fourth January 1 after adoption; however, the board of county commissioners or the governing body of the municipality may adopt a new ordinance to renew the exemption. The board of county commissioners or the governing body of the municipality shall deliver a copy of an ordinance adopted under this section to the department and the property appraiser within 10 days after its adoption. If the ordinance expires or is repealed, the board of county commissioners or the governing body of the municipality must notify the department and the property appraiser within 10 days after its expiration or repeal.

6.

## 99-YEAR AFFORDABILITY EXEMPTION FOR FHFC FUNDED PROPERTIES – S. 196.1978(4)

### Eligibility Criteria:

- A multifamily project that is composed of an improvement to land where an improvement did not previously exist or the construction of a new improvement where an old improvement was removed, which was substantially completed within 2 years before the first submission of an application for exemption under this subsection.
- Contains more than 70 units that are affordable to households at or below 80% AMI.
- Be subject to a land use restriction agreement with the Florida Housing Finance Corporation recorded in the official records of the county in which the property is located that requires that the property be used for 99 years to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, low-income, or moderate income limits specified in s. 420.0004.

The agreement must include a provision for a penalty for ceasing to provide affordable housing under the agreement before the end of the agreement term that is equal to 100 percent of the total amount financed by the corporation multiplied by each year remaining in the agreement.

**Property Tax Exemption Available:** 100% exemption for the portions of the property used to provide affordable housing beginning with the January 1 assessment immediately succeeding the date the property was placed into service.



## Additional Provisions:

- The property is no longer eligible for this exemption if the property no longer serves extremely-low-income, very-low-income, low-income persons pursuant to the recorded agreement.
- Properties that receive the County & Municipal Affordable Housing Exemption on Multifamily Properties pursuant s. 196.1979 are ineligible for this exemption.

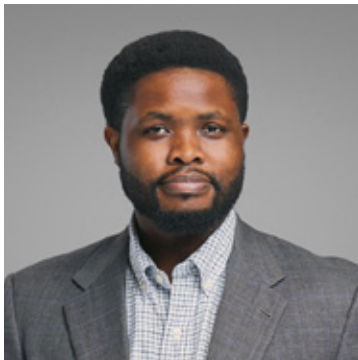
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