

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 161 Affordable Housing  
**SPONSOR(S):** Economic Development & Community Affairs Policy Council and Aubuchon  
**TIED BILLS:** **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Military & Local Affairs Policy Committee	13 Y, 0 N, As CS	Rojas	Hoagland
1)	Economic Development & Community Affairs Policy Council	14 Y, 1 N, As CS	Rojas	Tinker
2)				
3)				
4)				
5)				

### SUMMARY ANALYSIS

The CS/CS/HB 161 substantially revises and updates numerous statutes which govern the implementation of various affordable housing practices and procedures statewide by the Florida Housing Finance Corporation (FHFC). The FHFC is the state entity primarily responsible for encouraging the construction of affordable housing in Florida.

The CS/CS/HB 161 allows for the following:

- removes an exception to FHFC for the use of the state allocation pool to provide written confirmations for private activity bonds issued by state agencies,
- creates section 193.018, F.S., reducing the property tax rate of property held by community land trusts,
- expands the ad valorem tax exemption for affordable housing properties and provides that undeveloped property owned by an exempt entity is considered used as long as the owner can document that affirmative steps are being taken to prepare the property for affordable housing,
- use of State Apartment Incentive Loans for moderate rehabilitation efforts,
- modifies the distribution of funds from the Local Government Housing Trust Fund by authorizing set-asides for specific purposes,
- revises requirements relating to local housing assistance plans,
- extends an exemption for Monroe County relating to income-restrictions for persons qualified to receive assistance under a local housing assistance plan,
- authorizes counties and eligible cities to award grants using funds distributed under the local housing assistance program,
- revises appointments to a local affordable housing advisory committee,
- limits the power of public housing authorities in certain circumstances,
- repeals statutory requirements relating to the distribution of funds remaining in the Local Government Housing Trust Fund after required distributions have been made,
- expands the uses of the local government infrastructure tax to be used for affordable housing, and
- directs FHFC to develop and administer the Florida Public Housing Authority Preservation Grant Program,
- directs FHFC to develop criteria for establishing a preference for developers and general contractors domiciled in Florida,
- prohibits FHFC from limiting the number of applications eligible for consideration in any of the corporations programs,
- expands the eligible uses of the homeless housing assistance grants to include the purchase of existing properties,
- maintains the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in the unincorporated areas,
- allows local governments to expend a portion of the local housing distribution to provide a one-time relocation grant to persons who meet the income requirements of the SHIP Program and who are subject to eviction from rental property due to the foreclosure of the rental property.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0161c.EDCA.doc

**DATE:** 4/6/2009

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

#### **Mortgage Revenue Bond (MRB) Program**

##### Present Situation

Section 159.807(4), F.S., governs the State allocation pool and the MRB program. The pool is used to provide allocations for those portions of a bond that require allocations. Recently, the way the statute has implemented bond allocations for the FHFC for the past fifteen years has been called into question.

##### Effect of the bill

The change removes an exception to FHFC for the use of the state allocation pool to provide written confirmations for private activity bonds issued by state agencies. The change also provides that on or before November 15 of each year, FHFC access to the state allocation pool is limited to the amount of its initial allocation. Thereafter, FHFC may not receive more than 80 percent of the amount in the state allocation pool on November 16 of each year, and may not receive more than 80 percent of any additional amounts that become available during the remainder of the calendar year. The change in language is intended to make clear that the current implementation procedure used by FHFC is correct.

#### **Local land development regulations**

The bill provides that if a recreational vehicle park is converted to another use, the underlying density accorded to the property is not lost. Specifically the bill establishes that property subject to local land development regulations pursuant to s. 163.3202, F.S., will maintain the existing density of residential properties or recreational vehicle parks if the properties or parks are intended for residential use and are located in the unincorporated areas that have sufficient infrastructure, as determined by a local governing authority, and are not located within a coastal high-hazard area under s. 163.3178.

#### **Special Assessment for Community Land Trust and Ad Valorem Tax Exemption for Affordable Housing Property**

##### Present Situation

Property Appraisers are directed to consider specific factors in deriving just valuation for assessing all properties in Section 193.011, F.S. These include present cash value of the property, highest and best use,

location, size and condition of the property and cost and the net proceeds of the sale of the property but must take into consideration any applicable limitations, including local or state land use regulation.

#### Effect of the Bill

The bill creates section 193.018, F.S., which establishes provisions that set forth special assessment for determining just valuation of qualifying properties, held by community land trusts. The assessment of resale-restricted homes built on community land trust property are not valued as though they were subject to free market purchase and sale prices, thereby reducing the assessment and property tax rate on those properties.

For example, when arriving at the just valuation of the underlying land of the community land trust, the amount a willing purchaser would pay a willing seller for the land is limited to an amount commensurate with the terms of the ground lease, which includes the restrictions of the use of the land to be included for consideration.

The bill also amends Section 196.196, F.S., regarding charitable exemptions, to expand the ad valorem tax exemption for affordable housing properties. Some entities considered tax exempt by the IRS for charitable non-profit housing purposes will also be considered tax exempt by the state. The bill also provides that undeveloped property owned by an exempt entity is considered used for an exempt purpose as long as the owner can document that affirmative steps are being taken to prepare the property for affordable housing for eligible residents.

In addition, Section 196.1978, F.S., regarding affordable housing property exemptions, is amended to create a recapture provision directing that if there is a change in eligibility requirements set forth or the exemption was obtained improperly the total amount of taxes, non-ad valorem assessments, and interest for the period such exemption was effective becomes due and payable.

If the property is transferred for a purpose other than providing affordable housing or if the property is not providing affordable housing within five years, the total amount of taxes and interest for the period such exemption was effective becomes due and payable. The five year period can be extended if the owner can demonstrate that affirmative steps are being taken to develop the property.

### **Local Government Infrastructure Surtax Revenues Used to Benefit Affordable Housing**

#### Present Situation

Infrastructure is currently defined in statute as:

- Any fixed capital expenditure associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any land acquisition, land improvement, or design, including engineering costs.
- A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and any necessary equipment to outfit the vehicle that has a life expectancy of at least 5 years.
- Any expenditure for the construction, lease, maintenance of, or the provision of utilities or security for, facilities as defined in s. 29.008, F.S.
- Any fixed capital expenditure associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. 252.38, F.S.

#### Effect of the bill

Section 212.055, F.S., is amended to redefine the term "infrastructure" to allow proceeds of the local government infrastructure surtax to be used for a land expenditure acquisition for a housing project. At least

30 percent of the units must be used to provide affordable housing to individuals or families whose household income does not exceed 120 percent of the area median income.

### **FHFC Rules Direction**

The bill amends s. 420.507(35), F.S., to prohibit FHFC from limiting the number of applications eligible for consideration in any of the corporations programs. The prohibition on limitation of applications is applicable to any application cycle commenced after the effective date of this bill becoming law.

The bill creates s. 420.507(47), F.S., which allows the FHFC to develop and administer the Florida Public Housing Authority Preservation Grant Program, a new program, aimed at preserving and rehabilitating public housing authority buildings that are 30 years or older. It directs the FHFC to establish criteria to prioritize grant expenditures to preserve and rehabilitate 30 year and older buildings and units under public housing authority control.

The bill also creates s. 420.507(48), F.S., which directs the FHFC to develop and administer rules, in connection with any FHFC competitive program, criteria establishing a preference for developers and general contractors based in Florida and for developers and general contractors, regardless of domicile, who have substantial experience in developing or building affordable housing through the corporation's programs.

### **State Apartment Incentive Loan (SAIL) Program**

The SAIL Program annually provides low interest loans on a competitive basis to affordable housing developers.

#### **Effect of the bill**

**Section 420.503, F.S.:** Creates a new definition for moderate rehabilitation, to allow SAIL funds to be used to preserve units that are less deteriorated than those requiring "substantial rehabilitation." The definition limits costs of at least \$10,000 but no more than 40% of unit value.

**Section 420.5087(6)(c)12., F.S.:** Adds sponsor's prior experience, including whether the developer and general contractor have substantial experience, as provided in s. 420.507(47), as criteria to be considered by FHFC in its scoring and competitive evaluation of applications for funding under the SAIL program.

**Section 420.5087(6)(c)16., F.S.:** Adds green building principles, storm resistant construction, or other elements that reduce long-term costs relating to maintenance, utilities, or insurance as criteria to be considered by FHFC in its scoring and competitive evaluation of applications for funding under the SAIL program.

**Section 420.5087(6)(c)17., F.S.:** Adds domicile of the developer and general contractor, as provided in s. 420.507(47) as criteria to be considered by FHFC in its scoring and competitive evaluation of applications for funding under the SAIL program.

**Section 420.5087(6)(l), F.S.:** Expands the use of SAIL funds to allow moderate rehabilitation and preservation of existing affordable units.

### **Affordable housing land donation density bonus incentives**

Section 420.615, F.S., provides that local governments may provide density bonus incentives to landowners who donate property for the purpose of assisting local governments in providing affordable housing. Donated property is subject to a determination by the local government for suitable use as affordable housing. The local approval includes amending the comprehensive plan under Ch. 163, F.S.

The Department of Community Affairs has argued that this provision of law is not clear enough to treat these density bonuses as a small scale amendment. As a result, confusion at the local level persists, creating a chilling effect on affordable housing donation agreements. The change in language provides clarity that the density bonuses received by a landowner as a result of a land donation for affordable housing is a small scale amendment.

### **The State Office on Homelessness**

The State Office on Homelessness was established within the Department of Children and Family Services in 2001 pursuant to s. 420.622, F.S., to provide interagency coordination on issues relating to homelessness. The office has an executive director who is appointed by the Governor, and is advised by the Council on Homelessness, a 15-member board of public and private agency representatives.

### **The Homeless Housing Assistance Grant**

Pursuant to s. 420.622(5), F.S., the State Office on Homelessness, with the concurrence of the Council on Homelessness, may administer moneys appropriated to it to provide homeless housing assistance grants for the construction or rehabilitation of transitional or permanent housing units<sup>1</sup> for homeless persons. These moneys consist of any sums that the state may appropriate, as well as money received from donations, gifts, bequests, or otherwise from any public or private source.

The grants are made to the designated lead agency of the local homeless continuum of care,<sup>2</sup> which may contract with other entities to construct and/or rehabilitate housing. The designation of a lead agency by the Office on Homelessness is done in consultation local homeless coalitions and public or private organizations that have previously certified to the U.S. Department of Housing and Urban Development that they currently serve as lead agencies for a local homeless assistance continuum of care.<sup>3</sup>

Grant applicants are ranked competitively. Preference is given to applicants who leverage additional private funds and public funds, particularly federal funds designated for the construction and rehabilitation of transitional or permanent housing for homeless persons, who build or rehabilitate the greatest number of units, and who build or rehabilitate in catchment areas having the greatest need for housing for the homeless.

Funding for a particular project may not exceed \$750,000, with the maximum percentage of funds that may be spent on administrative costs capped at five percent. As a condition of receiving grant dollars, the housing must be reserved for occupancy by homeless persons for at least 10 years. No more than two grants are awarded annually in any given local homeless assistance continuum of care catchment area.<sup>4</sup>

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<sup>1</sup> The statutes do not define "housing units." The term is defined in the Homeless Housing Assistance Grant Application Instructions as "a bedroom." A one-bedroom dwelling counts as one unit. Likewise, a two-bedroom dwelling counts as two units, a three-bedroom dwelling is three units, and so forth. Efficiency dwellings are counted as one unit. Single room occupancy dwellings are counted based on the number of rooms with each room counted as a unit, regardless of number of persons housed in the room, or number of beds.

<sup>2</sup> Pursuant to s. 420.624, F.S., a local homeless assistance continuum of care is a framework for a comprehensive and seamless array of emergency, transitional and permanent housing, and services to address the needs of homeless persons and persons at risk for homelessness. The nature and configuration of housing and services may be unique to each community or region, depending on local needs, assets and preferences. Communities or regions seeking to implement a local homeless assistance continuum of care are encouraged to develop and annually update a written plan that includes a vision for the continuum of care, an assessment of the supply of and demand for housing and services for the homeless population, and specific strategies and processes for providing the components of the continuum of care. Each local homeless assistance continuum of care plan must designate a lead agency that will serve as the point of contact and accountability to the State Office on Homelessness. The lead agency may be a local homeless coalition, municipal or county government, or other public agency or private, not-for-profit corporation.

<sup>3</sup> Section 420.624(6), F.S.

<sup>4</sup> Section 420.622(5), F.S.

The Office on Homelessness is required to establish performance measures to evaluate the performance of lead agencies that receive grant funds. Each lead agency for which grants are made must provide the office with a thorough evaluation of the effectiveness of the program in achieving its stated purpose. In evaluating the performance of the lead agencies, the Office on Homelessness must base its criteria upon the program objectives, goals and priorities that were set forth by the agencies in their proposals for funding. Such criteria may include, but not be limited to, number of homeless individuals provided shelter, food, counseling and job training.<sup>5</sup>

The Office on Homelessness is required to monitor the homeless housing assistance grants to ensure proper expenditure of funds and compliance with the conditions of the applicant's contract. The Department of Children and Family Services, with input from the Council on Homelessness, adopts rules relating to the grants.<sup>6</sup>

The Homeless Housing Assistance Grant is funded in the Florida Department of Children and Families with a transfer of Local Government Housing Trust Fund <sup>7</sup> dollars from the Florida Housing Finance Corporation. Since 2001, the grant has helped to fund the creation of 2,725 units of housing to address the needs of Florida's homeless population. In 2008, the local continuum of care plans identified a need for transitional and permanent housing to serve 24,302 persons.<sup>8</sup>

Currently, the grant may not be used to acquire existing structures.

#### Effect of the bill

The bill amends s. 420.622(5), F.S., to expand the eligible uses of the Homeless Housing Assistance Grant to include the purchase of existing properties. The change in allowable uses will not change the maximum grant award level of \$750,000.

### **Affordable Housing for Children and Young Adults Leaving Foster Care**

#### Present Situation

FHFC has collaborated with the Department of Children and Family (DCF) and child welfare stakeholders, including the Guardian ad Litem program and advocates, to expand the opportunities for supported housing for youth transitioning out of foster care. Former foster youth face challenges locating affordable and safe housing due to limited financial resources, limited availability of apartments or homes, and limited or non-existent family support. Some former foster youth become homeless as a result. The dire need for housing resources and services has been recognized at the national level as well. Recent federal legislation, the Housing and Economic Recovery Act of 2008, provides for former foster youth that are full-time students to be eligible for housing credit apartments. The availability of tax credits for housing developers provides the opportunity for youth to obtain reduced rental rates. DCF will continue to collaborate with the Florida Housing Finance Corporation to ensure the most effective implementation of limited housing resources for young adults formerly in foster care.

#### Effect of the bill

The bill creates s. 420.628, F.S., which qualifies children and young adults leaving foster care under statute as eligible persons for consideration for affordable housing assistance. The bill also provides guidance to the FHFC in developing and implementing strategies for establishing a suitable transition for those leaving foster care. In addition, it requires coordination among child welfare and housing agencies to make housing available wherever possible. DCF suggests that the removal of barriers and increased access to supported housing will

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<sup>5</sup> Section 420.622(6), F.S.

<sup>6</sup> Section 420.622(7) and (8), F.S.

<sup>7</sup> Section 420.9079, F.S., creates the Local Government Housing Trust Fund in the State Treasury. The fund is administered by the Florida Housing Finance Corporation, and derived from documentary stamp tax revenues.

<sup>8</sup> January 20, 2009, analysis by the Florida Department of Children and Families.

impact this population in a substantially positive manner by aiding them to complete their educations, sustain employment, reduce at-risk behaviors and provide the needed safety net to transition to adulthood and self-sufficiency.

## **State Housing Initiatives Partnership Act (SHIP) Statutory Definitions**

The SHIP Program provides funds to cities and counties as an incentive to create local housing partnerships and to preserve and expand production of affordable housing.

### **Present Situation**

Under current law s. 420.503, F.S., establishes general definitions relating to the FHFC and s. 420.9071, F.S., establishes numerous statutory definitions for the implementation of the SHIP Act by the FHFC. The SHIP program provides funds to local governments on a population-based formula as an incentive to produce and preserve affordable housing.

### **Effect of the bill**

The bill makes the following changes to the statutory definitions:

**Section 420.9071 (4), F.S.:** Updates the definition of “Annual gross income.” The change would allow FHFC by rule, to approve additional income verification methods consistent with verification methods currently utilized in the lending industry.

**Section 420.9071 (8), F.S.:** Updates the definition of “Eligible housing” to include manufactured homes that meet the standards of the Florida Building Code or predecessor building codes or manufactured housing constructed after 1994. Following the Hurricane Housing Work Group’s recommendation in 2005, FHFC used Hurricane Housing Recovery Program funds for manufactured housing assistance. Since 2006, the Community Workforce Housing Innovation Pilot Program (“CWHIP”) has included language identical to this.

**Section 420.9071 (16), F.S.:** Changes the definition of “Local housing incentive strategies” to allow the affordable housing advisory committee to propose additional incentive strategies for the local housing assistance plan.

**Section 420.9071 (25), F.S.:** Revises the definition of “Recaptured funds” to clarify the difference between recapture and program income. Currently, funds are categorized as recaptured when there is a default on a loan. The change would clarify that funds are only designated as recaptured when no eligible unit is assisted with the funds being recaptured. This also would allow FHFC to track the use of funds more accurately.

**Section 420.9071(29), F.S.:** Creates new subsection to define “Assisted housing,” as housing that receives funding from any federal or state housing program.

**Section 420.9071(30), F. S.** Creates new subsection to define “Preservation,” to categorize actions taken to keep rents affordable in existing assisted housing while ensuring that units remain in good physical condition.

## **Local Housing Distributions of SHIP Funding**

### **Present Situation**

Under current law s. 420.9073, F.S., establishes the criteria and manner of local housing distributions of the SHIP Act by the FHFC.

### **Effect of the bill**

The bill makes the following changes regarding the distribution of SHIP funds:

**Section 420.9072(7)(b), F.S.:** Allows local governments to expend a portion of the local housing distribution to provide a one-time relocation grant to persons who meet the income requirements of the SHIP Program and who are subject to eviction from rental property due to the foreclosure of the rental property.

**Section 420.9073 (1) and (2), F.S.:** Allows FHFC to distribute funds on a quarterly basis rather than a monthly basis subject to availability. The change would allow FHFC to distribute funds to local governments consistent with the schedule for release of funds by the state to FHFC.

**Section 420.9073 (5), F.S.:** Allows FHFC to set aside \$5 million each year in SHIP funds to fund disaster needs based on damage and recovery need. This change will allow FHFC to reserve funds to allocate to local governments for the purpose of quickly addressing housing needs in areas that are affected by a disaster situation as declared by the Governor. Funds not used for this purpose will be distributed to the local governments by the end of the year.

**Section 420.9073 (6), F.S.:** Allows FHFC to set aside up to \$5 million each year in SHIP funds for local governments to purchase homes which have existing SHIP subsidies and that are subject to foreclosure. This change will allow for such homes to be resold through the SHIP program. The proposed statutory language provides options for how the local government using this fund will repay funds used for this purpose so that no local government will receive additional SHIP funds beyond their annual allocation. This pool would allow local governments that have already encumbered all current funds to move quickly in a foreclosure situation. Funds not used for this purpose will be distributed to the local governments by the end of the year.

**Section 420.9073 (7), F.S.:** Clarifies that all counties or municipalities receiving SHIP funds must comply with Florida law, program rules, and the local housing assistance plan.

## **Development and Implementation of Local Housing Assistance Plans**

### **Present Situation**

Under current law, s. 420.9075, F.S., requires counties and eligible municipalities participating in the SHIP program to develop and implement a local housing assistance plan to make available affordable residential units to specified persons.

Additionally, s. 420.9076, F.S., requires counties and eligible municipalities participating in the SHIP program, after adopting a local housing assistance plan pursuant to s. 420.9075, F.S., to amend that plan within 12 months to include local housing incentive strategies.

### **Effect of the bill**

The bill makes the following changes to local housing assistance plans:

**Section 420.9075(1)(a) and (5)(d), F.S.:** Allows local governments to increase the area median income (AMI) limit on households served from 120% to 140% for areas determined by FHFC rule to be “high cost” areas. This change allows local governments to serve workforce households in areas where the cost of housing is above the state median pricing. As of 2008, high cost counties as defined by FHFC were Miami-Dade, Monroe, Palm Beach, Martin and Collier counties. At this time, it is unclear how the current decline in housing prices will affect the eligibility criteria for “high cost”.

**Section 420.9075(3)(d), F.S.:** Requires local governments to state in their local housing assistance plans how they plan to address innovative design, green building, storm resistant construction and other elements that reduce long term costs. This change requires that local governments consider how current and emerging building and design techniques should be integrated into affordable housing strategies both for sustainability and to promote greater affordability.

**Section 420.9075(3)(e), F.S.:** Creates new paragraph (e) to encourage local governments to develop preservation strategies within local housing assistance plans.

**Section 420.9075(5)(c), F.S.:** is created and limits the expenditure of SHIP funds on manufactured housing to 15 percent.



**Section 420.9075(5)(d), F.S.:** is renumbered and extends income restriction exemption requirements for Monroe County. As an area of critical state concern where the Legislature has declared its intent to provide affordable housing, Monroe County, has been exempted from the statutory reservation of SHIP funds specifically for low-income and very-low-income persons, allowing funding to households at or below 120% of Average Median Income. This exception expired July 1, 2008; this would extend the exemption to July 1, 2013, based on continuing high housing costs relative to incomes and allow for retroactive applicability dating back to July 1, 2008.

**Section 420.9075(5), F.S.:** Clarifies and outlines the parameters in which funds may be awarded as grants rather than loans: most SHIP funding is now provided in the form of loans including deferred payment and forgivable loans. This change clarifies when a local government can grant SHIP funds without any terms for repayment or recapture. This change will increase the amount of funds recycled through SHIP to assist additional households. The bill also provides in this section that funding for preconstruction preservation activities and that under certain circumstances such funds shall not be considered as administrative expenses.

**Section 420.9075(10)(a), F.S.:** Adds “persons with disabilities” to the list of demographics that must be tracked by the local governments. This change allows FHFC to track the number of households with a person with a disability which are served through the SHIP program.

**Section 420.9075(10)(h), F.S.:** Revises language to allow FHFC to require the tracking of additional program information by the local governments as necessary. This change adapts annual reporting requirements to allow FHFC to supply additional data needed to provide information on the performance of the program.

**Section 420.9075(14), F.S.:** Requires repayment of SHIP funds if these funds are found to be expended on ineligible activities. This change would give FHFC the ability to require that funds found to be used for ineligible expenditures be repaid by the local government to the local program’s affordable housing trust fund.

**Section 420.9076(2)(h), F.S.:** Allows a local government to appoint a “designee” to its affordable housing advisory committee in place of the Local Planning Agency (LPA) committee member in cases where the elected body acts as the LPA. This change would allow for circumventing conflicts where the LPA is the elected body of the local government.

**Section 420.9076(5) and (6), F.S.:** Amends language concerning the affordable housing advisory committee reporting requirements. This change clarifies that the committee’s evaluation and report must be adopted by the committee, must contain a summary, be available for the public to obtain, and be submitted to FHFC.

### **Distribution of excess funds in the Local Government Housing Trust Fund**

#### **Present Situation**

Section 420.9078, F.S., establishes criteria and methodology for the distribution of funds that remain in the Local Government Housing Trust Fund.

#### **Effect of the bill**

The deletion of s. 420.9078, F.S., is tied to the implementation of s. 420.9073 (5), F.S., which will allow FHFC to set aside \$5 million each year to fund disaster needs based on damage and recovery need. This change will allow FHFC to reserve funds to allocate to local governments to quickly address housing needs in areas that are affected by a disaster situation as declared by the Governor.

### **School Board Use of Surplus Land for Affordable Housing in Areas of State Critical concern**

Section 1001.43, F.S., allows that district school boards are empowered to exercise a number of supplemental powers and duties as authorized by statute or State Board of Education rule. The bill amends s. 1001.43 (12), F.S., to allow school boards in areas deemed by the legislature to be areas of critical state concern to utilize surplus land for affordable housing for teachers and other essential services personnel, such as fire, police and health care workers as defined by local affordable housing plans.

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 159.807, F.S., to clarify the non-taxable revenue bond allocation process.

**Section 2:** Amends s. 163.3202, F.S. to maintain the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in the unincorporated areas.

**Section 3:** Creates s. 193.018, F.S., Establishes provisions that address assessment of property used for affordable housing which located on Community Land Trusts

**Section 4:** Amends s. 196.196, to describe activities that are considered use of property for a charitable purpose.

**Section 5:** Amends s. 196.1978, F.S., to amend the ad valorem tax exemption for property used for affordable housing.

**Section 6:** Amends w. 212.055, F.S., to expand the uses of the local government infrastructure tax.

**Section 7:** Amends s. 420.503, F.S., to create a definition of “moderate rehabilitation”.

**Section 8:** Amends subsection (35) and creates subsection 420.507(47)-(48), F.S., created to allow the FHFC to develop and administer the Florida Public Housing Authority Preservation Grant Program and criteria for establishing a preference for developers and general contractors domiciled in Florida.

**Section 9:** Amends s. 420.5087, F.S., to allow use of SAIL funds for moderate rehabilitation and preservation of existing affordable units. Creates s. 420.5087(16), F.S., to add Green-building practices to scoring system for distribution of SAIL funds.

**Section 10:** Amends s. 420.615, F.S., to specify process relating to density bonuses.

**Section 11:** Amends s.420.622, F.S., to expand the eligible uses of the homeless housing assistance grants to include the purchase of existing properties.

**Section 12:** Creates s. 420.628, F.S., to address affordable housing for persons leaving foster care.

**Section 13:** Amends s. 420.9071(4), (8), (16), and (25), and creates (29) and (30) F.S., addressing select definitions of the State Housing Initiative Partnership Act

**Section 14:** Amends s. 420.9072(6)-(7), F.S., conforming cross-reference and allows local governments to expend a portion of the local housing distribution to provide a one-time relocation grant.

**Section 15:** Amends s. 420.9073, F.S., revising the criteria and manner of local housing distributions of the State Housing Initiatives Partnership Act by the FHFC.

**Section 16:** Amends s. 420.9075, F.S., revising local housing assistance plan dates for counties and eligible municipalities participating in the State Housing Initiatives Partnership program.

**Section 17:** Amends s. 420.9075, F.S., revising local housing assistance plan requirements for counties and eligible municipalities participating in the State Housing Initiatives Partnership program.

**Section 18:** Amends s. 420.9076, F.S., revising requirements for counties and eligible municipalities participating in the SHIP program allowing a local government to appoint a “designee” to its affordable housing

advisory committee in place of the Local Planning Agency and amends language concerning the affordable housing advisory committee reporting requirements.

**Section 19:** Repeals s. 420.9078, F.S., which directs the state administration of remaining local housing distribution funds.

**Section 20:** Amends s. 420.9079, F.S., conforming references.

**Section 21:** Amends s. 1001.43(12), F.S., to allow Areas of Critical State Concern to use surplus land for housing for teachers and other essential services personnel.

**Section 22:** Provides an effective date of July 1, 2009 except as otherwise provided.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None

#### **2. Expenditures:**

None

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

On March 20, 2009, the Revenue Estimating Conference adopted the following fiscal impacts:

- For provisions of the bill relating to ad valorem tax exemptions for exempt charitable organizations taking affirmative steps to provide affordable housing, the conference adopted an estimated a negative impact to local governments of \$200,000 each year over the next five years.
- For provisions of the bill relating to charitable non-profits, the conference adopted an estimated negative impact to local governments of \$400,000 each year over the next five years.
- No fiscal impacts were adopted on the remaining provisions of the bill.

#### **2. Expenditures:**

None

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Residents living in high-cost counties who have an annual income of not more than 140 percent of the area median income may be eligible for homeownership assistance through a local government's local housing assistance plan. Residents who purchase manufactured homes constructed after June 1994 or installed according to the standards of the Department of Highway Safety and Motor Vehicles will be eligible for assistance under the SHIP program so long as they are assessed as real property for ad valorem tax purposes.

### **D. FISCAL COMMENTS:**

None

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

N/A

2. Other:

None

#### **B. RULE-MAKING AUTHORITY:**

The bill creates subsections (47) and (48) of s. 420.507, F.S. which directs the FHFC to establish criteria to prioritize grant expenditures to preserve and rehabilitate 30 year and older buildings and units under public housing authority control and criteria for establishing a preference for developers and general contractors domiciled in Florida.

The bill may necessitate additional rule-making by the Department of Children and Families pursuant to s. 420.622(8), F.S.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 18, 2009, HB 161 was amended in the Military & Local Affairs Policy Committee upon adoption of a proposed committee substitute. The analysis reflects the bill as amended.

On April 1, 2009, CS/HB 161 was amended in the Economic Development & Community Affairs Policy Committee upon adoption of a strike-all amendment with one amendment to the strike-all. The analysis reflects the bill as amended. Specifically the amendment:

- Establishes provisions that address assessment of property used for affordable housing which located on Community Land Trusts.
- Describes activities that are considered use of property for a charitable purpose.
- Amends the ad valorem tax exemption for property used for affordable housing.
- Expands the eligible uses of the homeless housing assistance grants to include the purchase of existing properties.
- Maintain the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in the unincorporated areas.
- Local governments may expend a portion of the local housing distribution to provide a one-time relocation grant to persons who meet the income requirements of the SHIP Program and who are subject to eviction from rental property due to the foreclosure of the rental property.
- Raises eligible funds for manufactured housing from 15% to 20%.
- Clarifying language regarding eligibility of youth aging out of foster care for affordable housing.
- Prohibits FHFC from limiting the number of applications eligible for consideration in any of the corporations programs.