

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 267

Affordable Housing

**SPONSOR(S):** Economic Development Policy Committee/Fitzgerald and others

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 1042

---

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>Military &amp; Local Affairs Policy Committee</u>	<u>12 Y, 0 N</u>	<u>Rojas</u>	<u>Hoagland</u>
2)	<u>Economic Development Policy Committee</u>	<u>17 Y, 0 N, As CS</u>	<u>Malcolm</u>	<u>Kruse</u>
3)	<u>Economic Development &amp; Community Affairs Policy Council</u>	<u>15 Y, 0 N</u>	<u>Rojas</u>	<u>Tinker</u>
4)	<u>Finance &amp; Tax Council</u>	<u>11 Y, 0 N</u>	<u>Diez-Arguelles</u>	<u>Langston</u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

---

### SUMMARY ANALYSIS

Community land trusts are a tool for creating affordable homeownership opportunities. The community land trust sells the home, but not the land, to an income-eligible buyer. The purchase price of the home is made affordable to the homebuyer, in large part because the buyer is not paying for the land. After the initial acquisition, resale prices are limited by a formula contained in the ground lease that restricts the market price of the home to ensure continuous affordability.

The bill creates s.193.018, F.S., which establishes special provisions for property appraisers to use in determining the just valuation of properties held by community land trusts. The bill provides that the land owned by a community land trust must be assessed based on the fair market value of the property as limited by the terms of the ground lease that restrict the use of the land to the provision of affordable housing in perpetuity. Any improvements, condominium parcels or cooperative parcels must be assessed based on the fair market value of the property as limited by the terms of the ground lease.

The Revenue Estimating Conference has determined that the bill will have a negative indeterminate impact on local government revenues.

The bill has an effective date of July 1, 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:

##### **Background and Current situation:**

In an effort to create permanent affordable homeownership opportunities for Florida's workforce, local governments are donating land, or the money to purchase land, to charitable, tax exempt housing organizations known as community land trusts, which then build homes on the property. The community land trust sells the home, but not the land, to an income-eligible buyer. The purchase price of the home is made affordable to the homebuyer, in large part because the buyer is not paying for the land. The homeowner receives a 99-year ground lease interest in the land and pays a nominal monthly fee to the community land trust for the use of the land. After the initial acquisition, resale prices are limited by a formula contained in the ground lease that restricts the market price of the home to ensure continuous affordability.

Section 193.011, F.S., requires property appraisers to consider specific factors in determining the just valuation of property for ad valorem tax purposes. These factors include the present cash value of the property; the highest and best use to which the property can be expected to be put in the immediate future; the location, size and condition of the property; and the cost and the net proceeds of the sale of the property. The appraiser must also take into consideration any applicable limitations, including local or state land use regulations.

The assessment of community land trusts was addressed in section 19 of HB 1B during the June 2007 special legislative session. The pertinent language addressing community land trusts<sup>1</sup> was passed as part of HB 1B (s. 19, ch. 2007-321), but the enactment of section 19 was tied to the passage of the amendment that was approved for placement on the ballot during the same special session (s. 34, ch. 2007-321). Subsequently, the amendment was removed from the ballot by the Florida Supreme Court<sup>2</sup>, and was not included in the property tax reforms approved during the January 29, 2008, special election.

---

<sup>1</sup> Section 19, beginning on line 1235, and section 34, beginning on line 1910.

<sup>2</sup> No. SC04-942.

## **Effect of Proposed Changes**

This bill establishes criteria for property appraisers to use in determining the just valuation of property held by community land trusts.

The bill provides that , when determining the just valuation of the land owned by a 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 that restrict the use of the land to the provision of affordable housing in perpetuity. Any improvements, condominium parcels or cooperative parcels must be assessed based on the fair market value of the property as limited by the terms of the ground lease.

The bill defines a “community land trust” to mean a nonprofit entity that is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and has as one of its purposes the acquisition of land to be held in perpetuity for the primary purpose of providing affordable homeownership. The community land trust can convey structural improvements (homes) to persons and families meeting specified income limitations.<sup>3</sup> . The land trust must retain a preemptive option to purchase any structural improvements on the land at a price determined by a formula specified in the ground lease.

The bill further directs that if the ground lease and all amendments, supplements, or memorandum documenting how such a lease restricts the price at which improvements may be sold are recorded in the official records of the county, the ground lease shall be deemed a land use regulation during the term of the lease.

### **B. SECTION DIRECTORY:**

**Section 1:** Creates s. 193.018, F.S., to provide for the assessment of property used for affordable housing located on Community Land Trusts.

**Section 2:** Provides an effective date of July 1, 2009.

## **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 14, 2009, the Revenue Estimating Conference determined that the provisions of the bill will have a negative indeterminate impact on local governments..

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

None

---

<sup>3</sup> Income limitations can be found in s.420.0004, F.S. and s. 420.5095(3), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce the cost of living in a dwelling within a community land trust by reducing the assessment on those homes.

D. FISCAL COMMENTS:

During the 2008 Session, the Revenue Estimating Conference reported that there were approximately 17 community land trusts in Florida that were operational or in the incorporation stage, and a potential for an additional 13 that could qualify under the bill.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill reduces the authority that municipalities or counties have to raise revenue. The Revenue Estimating Conference has determined that the bill will have a negative indeterminate fiscal impact on local governments. Staff estimates that the impact on municipalities and counties will not exceed \$1.9 million statewide. Therefore, the bill may be exempt from the mandates provision because it has an insignificant fiscal impact.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

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

On March 25, 2009, the Economic Development Policy Committee amended the bill. The amendment is technical in nature, changing the word "purchase" to "purchaser." The bill passed favorably as a committee substitute.