

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 267

Affordable Housing

SPONSOR(S): Fitzgerald

TIED BILLS:

IDEN./SIM. BILLS: SB 1042

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	12 Y, 0 N	Rojas	Hoagland
2)	Economic Development Policy Committee			
3)	Economic Development & Community Affairs Policy Council			
4)	Finance & Tax Council			
5)				

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 is limited to 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 assessment provisions for determining just valuation of properties held by community land trusts. The bill revises the assessment of resale-restricted homes built on community land trust property so that they 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.

## 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 is limited to a formula contained in the ground lease that restricts the market price of the home to ensure continuous affordability.

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. The appraiser must also take into consideration any applicable limitations, including local or state land use regulation.

Special assessment of homes located on a community land trust 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.

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

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

## **Effect of the Bill:**

This bill establishes criteria for the assessment of just valuation of qualifying properties held by community land trusts. The bill revises the assessment of resale-restricted homes built on community land trust property so that they 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 defines that land subject to special assessment under this statute be held by community land trusts operating as nonprofit entities that are qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and has as one of its purposes to purchase property and hold it in perpetuity for the primary purpose of providing affordable homeownership for persons and families subject to specified income limitations.<sup>3</sup> The community land trust can convey, to these specified persons, structural improvements (homes) located on specific parcels of land to provide affordable housing. The statute also requires that conveyance be subject to a ground lease of at least 99 years. The trust shall retain the preemptive option to purchase any structural improvements on the land at a price determined in the ground lease.

The bill directs that the just valuation of the assessment be arrived at under s.193.011, F.S., which holds that the property appraiser shall take into consideration the present cash value of the property, which is the amount a willing purchaser would pay a willing seller and the highest and best use to which a property can be expected to be put in the immediate future and present use of the property, taking into consideration the limitations of local and state land use regulation.

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

Thus, resale-restricted homes built on community land trust property are not assessed as though they were subject to free market purchase and sale prices, thereby reducing the property tax rate on those properties.

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

**Section 1:** Establishes provisions that address assessment of property used for affordable housing which 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

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

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

1. Revenues:

There will be a decrease in revenue for local governments because a reduction of assessment rates will reduce the property tax rate on those homes that qualify within a community land trust. On March 14, 2009, the Revenue Estimating Impact Conference estimated an indeterminate impact.

Expenditures:

None

**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 property tax on those homes.

**D. FISCAL COMMENTS:**

During the 2008 Session, the Revenue Estimating Impact Conference reported that there are approximately 17 community land trusts in Florida that are operational or in the incorporation stage, and a potential of an additional 13 that could qualify under the bill. The impact is expected to be minor due to the limited number of properties.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

N/A

2. Other:

None

**B. RULE-MAKING AUTHORITY:**

None

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

None

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