HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	SB 1996	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Budget Committee	106 **Y's**	11 **N's**
COMPANION BILLS:	None	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

SB 1996 passed the House on March 9, 2012. The bill conforms to the FY 2012-13 General Appropriations Act and specifically provides the following:

- Removes the distribution of documentary stamp tax revenues to the Century Commission, as well as the authorization for members of the Century Commission to receive per diem and travel expenses while in performance of their duties;

- Requires the Auditor General and the Office of Program Policy Analysis and Government Accountability to conduct a joint audit and review of all Florida Housing Finance Corporation (FHFC) programs and operations. The audit and review should include recommendations for changes to the structure, governance, and operational processes of the Florida Housing Finance Corporation;

- Directs FHFC to use up to 10 percent of its annual allocation of low-income housing tax credits, nontaxable revenue bonds, and State Apartment Incentive Loan Program (SAIL) funds for high-priority affordable housing projects for housing veterans and their families, and other special needs populations in communities throughout the state;

- Authorizes older SAIL loans to refinance to the interest rate that is currently being used in FHFC rules (no more than 3 percent);

- Provides that a participant in a Workforce Services One-stop delivery system work experience program shall be deemed an employee of the state for purposes of worker's compensation coverage;

- Directs the Department of Economic Opportunity to prepare draft legislation to conform the Florida Statutes to the policy decisions in the bill on or before October 1, 2012; and

- Provides that an independent special district which provides water, wastewater, or sanitation services in disproportionally affected counties may reduce its rates, fees or charges for specific users in certain circumstances. A governing body that exercises this power must do so by resolution that states the anticipated economic benefit justifying the reduction as well as the period of time that the reduction remains in place.

The bill was approved by the Governor on April 20, 2012, ch.2012-127, Laws of Florida. Sections 3 and 9 of the bill are effective upon becoming law. Sections 1, 2, and 4-8 of the bill are effective July 1, 2012.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

The bill directs the Department of Economic Opportunity to prepare draft legislation to conform the Florida Statutes to the policy decisions in the bill, and submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before October 1, 2012.

Century Commission for a Sustainable Florida (Century Commission)

Present Situation

The Century Commission was created in 2005 as a standing body charged with helping the state envision and plan for the future using a 25-year and a 50-year planning horizon.[1] The Century Commission must submit an annual report containing specific recommendations for addressing growth management in the state. The report, which must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives, must also contain discussions regarding the need for intergovernmental cooperation and the balancing of environmental protection with future development, as well as recommendations regarding dedicated funding sources for sewer facilities, water supply and quality, transportation facilities, and educational infrastructure.

The Century Commission consists of 15 members representing local governments, school boards, developers, homebuilders, the business, agriculture, environmental communities and other appropriate stakeholders. The Governor, President of the Senate, and Speaker of the House of Representatives each receive five appointments to the commission. The commissioners serve without compensation, but, with the exceptions of FY 2010-11 and FY 2011-12 may receive reimbursement for per diem and travel expenses while in performance of their duties. Meetings of the commission are held at least three times a year in different regions of the state to collect public input and the Department of Economic Opportunity provides staff and other resources necessary for the Century Commission to accomplish its goals.

In recent years, the commission has operated primarily on private funding. Prior to July 1, 2009, s. 201.15(1) (c), F.S., provided that the Century Commission would receive an annual distribution from the documentary stamp tax of $260,000 to fund its operations. The General Appropriations Act Implementing Bill for both FY 2010-11 and FY 2011-12 provided that, for those years only, the Century Commission would not receive the tax distribution under s. 201.15(1)(c), and that the members would not be entitled to reimbursements for travel and per diem expenses while in the performance of their duties.[2]

The 2011 Florida Legislature repealed the Century Commission's authorizing statute[3] and abolished the Century Commission, effective June 30, 2013.[4]

Effect of Changes

The bill repeals ss. 49 and 51 of chapter 2011-47, Laws of Florida, that removes the future expiration of amendments to s. 163.3247(3), F.S. and s. 201.15(1)(c)2, F.S., which results in the elimination of the distribution of documentary stamp tax revenues to the Century Commission and the authority for members of the Century Commission to receive travel and per diem reimbursements.

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[1] Section 11, Chapter 2005-290, Laws of Florida.
[2] Sections 41-44 of Chapter 2010-153, and sections 48-51, Chapter 2011-47, Laws of Florida.
[3] Section 163.3247, F.S.
[4] Section 31 of Chapter 2011-139, Laws of Florida.

Florida Housing Finance Corporation

Present Situation

The Florida Housing Finance Corporation[5] (FHFC) is a state entity primarily responsible for encouraging the construction and reconstruction of new and rehabilitated affordable housing in Florida. It was created in 1997, when the Legislature enacted Ch. 97-167, Laws of Florida, to streamline the implementation of affordable housing programs by reconstituting the agency as a corporation. The FHFC is a public corporation housed within the Department of Economic Opportunity (DEO), but is a separate budget entity not subject to the control, supervision, or direction of the DEO. Instead, it is governed by a nine member board of directors comprised of the Secretary of DEO, who serves as an ex officio voting member, and eight members appointed by the Governor, subject to confirmation by the Senate.

The FHFC operates several housing programs financed with state and federal dollars, including:

- The State Apartment Incentive Loan Program (SAIL), which annually provides low-interest loans on a competitive basis to affordable housing developers;[6]
- The State Housing Initiatives Partnership Program (SHIP), which provides funds to cities and counties as an incentive to create local housing partnerships and to preserve and expand production of affordable housing;
- The Florida Homeowner Assistance Program (HAP), which includes the First Time Homebuyer Program, the Down Payment Assistance Program, the Homeownership Pool Program, and the Mortgage Credit Certificate program;
- The Florida Affordable Housing Guarantee Program, which encourages lenders to finance affordable housing by issuing guarantees on financing of affordable housing developments financed with mortgage revenue bonds;
- The HOME Investment Partnership Program, which provides low-interest loans from federal funds to developers to finance construction and rehabilitation of homes and rental program;
- The Predevelopment Loan Program, which assists nonprofit and community based organizations, local governments and public housing authorities by providing loans of up to $750,000 for predevelopment activities; and
- The Community Workforce Housing Innovation Pilot Program (CWHIP), which awards funds on a competitive basis to promote the creation of public-private partnerships to develop, finance, and build workforce housing.

The FHFC receives funding for its affordable housing programs from documentary stamp tax revenues which are distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund.[7] Pursuant to s. 420.507, F.S., the FHFC is also authorized to receive federal funding in connection with the FHFC's programs directly from the Federal Government.[8]

Effect of Changes

The bill directs the Auditor General and the Office of Program Policy Analysis and Government Accountability to conduct a joint audit and review of the programs and operations of the FHFC. The audit and review is to be submitted to the President of the Senate and the Speaker of the House of Representatives no later than July 1, 2012, and is to encompass, at a minimum, a review of the FHFC's assets, liabilities, income, and operating expenses; the internal management, financial and operational controls employed, and programmatic decision making processes used; the governance, direction, and

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[5] Formerly the Florida Housing Finance Agency.

[6] Under current law, low interest mortgage loans provided under the SAIL Program are only available for qualifying farm workers, commercial fishing workers, the elderly, and the homeless. See s. 420.507(22), F.S.

[7] Sections 201.15(9) and (10), F.S.

[8] See ss. 420.507(33) and 159.608, F.S.

oversight provided by the FHFC Board of Directors; and the performance outcomes of the programs administered by the FHFC.

The audit and review is also to include recommendations to the Legislature for changes to the structure, governance, and operational processes of the FHFC. Unless otherwise directed in writing jointly by the President of the Senate and the Speaker of the House of Representatives, a written report of the audit and review shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than December 1, 2012.

The bill also amends s. 420.507, F.S., directing the FHFC to use up to 10 percent of its annual allocation of low-income housing tax credits, nontaxable revenue bonds, and SAIL funds appropriated by the Legislature for high-priority affordable housing projects, such as housing to support economic development and job-creation initiatives, housing for veterans and their families, and other special needs populations in communities throughout the state.

State Apartment Incentive Loan (SAIL) Program

<u>Present Situation</u>

The SAIL program, created in s. 420.5087, F.S., authorizes the FHFC to underwrite or make loans or loan guarantees to provide affordable housing to very-low-income persons if:

- The project sponsor uses tax-exempt financing for the first mortgage and at least 20 percent of the units are set aside for persons or families who meet the income eligibility requirements of s. 8 of the United States Housing Act of 1937, as amended;
- The project sponsor uses taxable financing for the first mortgage and at least 20 percent of the units are set aside for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, adjusted to family size; or
- The project sponsor uses federal low-income housing tax credits and the project meets the tenant eligibility requirements of s. 42 of the Internal Revenue code.[9]

According to the FHFC, "SAIL funds provide gap financing that leverages federal mortgage revenue bonds and allows developers to obtain the full financing needed to construct affordable multifamily units."[10] Under current law, SAIL funds must be reserved for the following tenant groups: commercial fishers and farm workers, families, the elderly, and the homeless.[11] Projects that maintain at least 80 percent of their units for commercial fishing workers, farm workers, and the homeless, are eligible to receive loans with interest rates from 0 to 3 percent. All other projects are eligible for loans with interest rates from 1 to 9 percent.[12]

Ten percent of funds set aside to house the elderly must be reserved to provide loans for the purpose of making existing building health and preservation improvements, sanitation repairs or improvements required by federal, state, or local law or regulation, or life safety or security-related repairs and improvements. Loans from the reserved funds may not exceed $750,000 per housing community, and the sponsor of the housing community must commit to matching at least 5 percent of the loan amount needed to pay for the necessary repairs or improvements.[13]

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[9] Section 420.5087(2)(a) - (c), F.S.
[10] The Florida Housing Finance Corporation, *Overview of the Florida Housing Finance Corporation's Mission and Programs*, Sept. 2009, on file with the Senate Committee on Community Affairs.
[11] Section 420.5087(3)(a)-(d), F.S.
[12] Section 420.5087(6)(a), F.S., *referencing* s. 420.507(22)(a)1. and 3., F.S.
[13] Section 420.5087(3)(d), F.S.

Senate Bill 360 (2009) amended s. 420.5087, F.S., to include the following additional criteria the FHFC must consider while evaluating and competitively ranking applications for funding under the SAIL program:

- Projects with green building principles, storm-resistant construction, or other elements to reduce long-term costs relating to maintenance, utilities, or insurance.
- Whether the developer and general contractor have substantial experience.
- Domicile of the developer and general contractor.[14]

Senate Bill 360 (2009) also provided that SAIL loan proceeds may be used for moderate rehabilitation or preservation of affordable housing units.

Effect of Changes

The bill amends s. 420.5087, F.S., authorizing the FHFC to accept payment of deferred interest through the SAIL program at an interest rate that is consistent with current SAIL program interest rates in the FHFC rules (no more than 3 percent). Priority is given to properties in the Guarantee Fund prior to September 30, 2003, that has received SAIL funding in 2011 to reduce their first mortgage debt in exchange for units targeted to households earning extremely low incomes. The maximum amount that may be funded is $2.5 million per project and the authority expires on June 30, 2013.

Workers Compensation Coverage

Present Situation

The Welfare Transition Program, the Food Stamp Employment and Training Program, and the Workforce Investment Act Program provide work experience for adult and youth participants.

In the Welfare Transition Program, participants engage in work experience as a condition for their continued receipt of cash assistance under the federal Temporary Assistance for Needy Families (TANF) Program. In the Food Stamp Employment and Training Program, certain participants are required to engage in work experience as a condition for their continued receipt of food stamp benefits. In the Workforce Investment Act Program, work experience is an activity that is primarily used for youth who have had limited exposure to the workforce.

Federal law requires that participants in a federally funded work experience activity must be covered either under the state workers' compensation law or comparable insurance coverage must be secured. The cost for any workers’ compensation coverage provided under this proposal would be paid for by the applicable federal grant program. The overall cost would be lower if all participants were covered under the state’s plan rather than each regional workforce board and each individual service provider having to negotiate separate insurance coverage for their participants.

Section 445.009(11), F.S., allows a participant in an adult or youth work experience activity to be deemed an employee of the state for purposes of workers’ compensation coverage.[15] This subsection of statute is set to expire on June 30, 2012.

Effect of Changes

The bill amends s. 445.009, F.S., to remove the expiration date from a subsection which provides that a participant in a Workforce Services One-stop delivery system work experience program shall be deemed an employee of the state for purposes of worker’s compensation coverage.

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[14] Chapter 2009-96, L.O.F.

[15] Section 47, ch. 2011-147, Laws of Florida, amended this provision in order to implement Specific Appropriation 2008 of the 2011-2012 General Appropriations Act.

Water and Wastewater Services

Present Situation

Chapter 367, F.S. which provides for regulation of water and wastewater utilities by the Public Service Commission, specifically exempts systems owned, operated, managed, or controlled by governmental authorities from regulation by the commission.

Effect of Changes

The bill provides that if the governing body of a local governmental entity existing as an independent special district that provides water, wastewater, and sanitation services in a disproportionally affected county[16] determines that a new user or the expansion of an existing user of one or more of its utility systems will provide a significant benefit to the community in terms of increased job opportunities, economies of scale, or economic development in the area, the governing body may authorize a reduction of its rates, fees, or charges for that user for a specified period of time. A governing body that exercises this power must do so by resolution that states the anticipated economic benefit justifying the reduction as well as the period of time that the reduction remains in place.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   The provision of the bill requiring the joint audit and review of FHFC programs and operations will have an indeterminate, but likely insignificant impact on the workload of the Auditor General and the Office of Program Policy Analysis and Government Accountability. It will be absorbed within existing resources and staff.

A. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   A local government entity existing as an independent special district that provides water, wastewater, and sanitation services in certain counties may get less revenue if it enacts a reduction in rates or charges for a new or expanding user.

2. Expenditures:

   None

[16] Section 288.106(8), F.S.

B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Some new or existing users of water, wastewater and sanitation services may realize a rate reduction for these services if they provide specific benefits to their local community.

C. FISCAL COMMENTS:

According to FHFC, authorization to accept payment of deferred interest through the SAIL program at an interest rate that is consistent with current SAIL program interest rates, with priority to the properties in the Guarantee Fund (meaning that their first mortgages are guaranteed by the FHFC utilizing documentary stamp tax revenues), would allow for properties to further reduce their first mortgage debt and be better positioned to refinance out of the Guarantee Fund altogether. Thirty-one Guarantee Fund properties applied for SAIL funding in 2011, however only thirteen were actually awarded SAIL funds and invited into credit underwriting. All thirteen (as well as the remainder of the thirty-one that were not awarded SAIL funds in 2011) would likely meet these requirements and be eligible for additional SAIL funding under the provisions.

Elimination of the documentary stamp tax distribution and travel and per diem expenses for Century Commission members will not have a fiscal impact as this permanently codifies what has been current practice for at least two years.