

**STORAGE NAME:** h3111.ca

**DATE:** March 25, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 3111

**RELATING TO:** Affordable Housing

**SPONSOR(S):** Representative Bradley and others

**COMPANION BILL(S):** SB 2204 (s); SB 1982 (c)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COMMUNITY AFFAIRS
  - (2)
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

The bill reenacts the Community Development Corporation Support and Assistant Program Act. The act is titled "Invest in Neighborhood Vitality and Economies Act." It broadens the scope of the law to provide state support, assistance, and resource investing to community-based development organizations (CBDO) which include the traditional community development corporations.

The bill provides additional administrative grant selection criteria and reporting requirements to increase accountability among CBDOS. It establishes a community-based development training and technical assistance program for CBDOS.

The Department of Community Affairs stated that it needs approximately \$275,780 for fiscal year 1998-99 to implement the provisions of the bill.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 290, F.S., provides, in concert with the private sector, state support and promotion of urban redevelopment at the local government level. Particularly, the provisions of ss. 290.0301 through 290.0395, F. S., constitutes the Community Development Corporation Support and Assistance Program Act (CDCSA). The act "sunsets" on June 30, 1998.

The act recognizes the economic deterioration of neighborhoods and surrounding areas. The act provides that a viable means of eliminating or reducing such deteriorating economic conditions and encouraging local resident participation and support is to provide assistance and resource investment to community development corporations. The act defines a community development corporation (CDC) as "a community-based organization which facilitates or financially supports revenue-generating business for the purpose of community and economic development, based in a specific geographic area controlled by residents, and committed to enhancing community well-being . . ."

**Background**

The CDCSA program has been operating for over 15 years. Under the program, funds are awarded to CDCs based on a competitive application process. Currently, the CDCSA program awards a maximum of 18 grants of up to \$100,000; planning grants up to \$50,000 (limited to up to 10 percent of the total appropriated for administrative grants); and economic development and affordable housing loans.

According to the Department of Community Affairs (DCA), the Legislature has not funded the economic development loan program for over five years. The affordable housing loan program is currently funded at \$1.5 million. Individual loans may not exceed \$250,000 and the total amount of loans to any CDC in a given fiscal year may not exceed 40 percent of the total loan appropriation for the program.

Statistics provided by DCA show that 16 CDCs received administrative grants in 1996-97 and 5 affordable housing loans were obligated to 4 CDCs in the same period. The DCA funded 18 administrative grants and an estimated four planning grants in 1997-98 and one application for \$500,000 in affordable housing loans has been submitted.

Chapter 93-120, Laws of Florida, eliminated the Community Development Support and Assistance Trust Fund as the CDCSA program funding source, replacing it with the Operating Trust Fund. However, the bill, as currently drafted, unnecessarily amends the law to replace the Community Development Support and Assistance Trust Fund with the Operations Trust Fund. Pursuant to s. 290.034, F.S., the Legislature is required to annually provide funding for the CDCSA. This requirement appears unconstitutional since one Legislature cannot bind the actions of future Legislatures.

**1998 Audit Results on the CDCSA Program**

Based on its 1998 audit findings, the Office of Program Policy Analysis and Government Accountability (OPPAGA) recommends that:

- The Legislature not reenact of the CDCSA program. The OPPAGA report explains that the program is not an efficient way to support CDCs.
- The Legislature redirect the program's \$1.5 million in Sadowski Act appropriations to other affordable housing programs. The OPPAGA asserts that the CDC affordable housing loan program addresses needs that are also met by other federal, state, and local community development programs.
- The Legislature consider other alternatives for redirecting the program's \$800,000 in general revenue appropriations. One option is to revert the appropriation to the general fund since the OPPAGA was unable to identify existing state programs effectively assisting economic development in distressed areas, and a new economic development grant program with only \$800,000 in funding could be as inefficient as the current program. The second option redirects the funds to an affordable housing program together with the Sadowski Act funds. Based on Florida Housing Finance Corporation projections, an additional appropriation of \$800,000 to the State Housing Initiatives Partnership program is expected to create 49 affordable housing units.
- The Department of Community Affairs (DCA) continue to monitor outstanding program loans and grant agreements.
- The Legislature direct the DCA to allocate the remaining portion of loan revenues to expand the activities of the Affordable Housing Catalyst. The catalyst program is the state's only source of technical assistance for community development projects. However, the catalyst program is unable to offer technical assistance for economic development because the source, the Sadowski Act funds, is restricted to affordable housing activities.

### **The DCA Response to the 1998 Audit Results on the CDCSA Program**

In response, the DCA *disagrees* with all the OPPAGA recommendations. The DCA states that:

- Data from CDCs support re-enactment and OPPAGA has not provided evidence to the contrary. In Fiscal Year 1996-97, 16 funded CDCs: (a) created 1,332 jobs; (b) repaired or built 784 homes; (c) assisted 963 businesses; and (d) leveraged over \$50 million in other sources to aid in redeveloping their service areas.
- Redirecting the program's appropriations would eliminate one of the few sources of money to support community based redevelopment leadership and place an even greater reliance on housing to go it alone as the state's vehicle for redevelopment. Furthermore, the recommendation to redirect certain funding will result in no longer having a source targeted to CDCs, and no longer meets the legislative intent to assist in the revitalization of the state's distressed areas.
- The loan and grant agreement monitoring should also be transferred with the funding to the Florida Housing Finance Corporation if, in the alternative, the CDCSA program is dismantled.

- It does not support allocating the remaining portion of loan revenues to the Affordable Housing Catalyst Program.

### **Current Law Summary**

Section 290.035, F. S., provides for the requirements for CDCs to become eligible for assistance from the CDCSA program. Section 290.036, F.S., governs the awarding of administrative grants under the CDCSA program.

Section 290.0365, F.S., establishes CDC planning grants. The program authorizes the DCA secretary under certain conditions to reserve up to 10 percent of the annual appropriations for administrative grants to be awarded to CDC which failed to receive an administrative support grant at any time during the previous history of the administrative grant program.

Section 290.037, F. S., establishes the community development deferred loan program. Section 290.039, F. S., requires CDCs receiving CDCSA program funds to report certain information to the Department of Community Affairs. Section 290.0395, F. S., establishes an evaluation and review process for CDCs under the CDCSA program.

#### **B. EFFECT OF PROPOSED CHANGES:**

The bill changes the repeal date of the Community Development Corporation Support and Assistant Program Act (CDCSA) to June 30, 2007. It also changes the act's title to "Invest in Neighborhood Vitality and Economies Act (INVEST)."

The bill clarifies the act's legislative intent to focus on both rural and urban neighborhoods in the quest to eradicate neighborhood social and economic deterioration. The bill provides a broader method to resolve the blight of neighborhoods by directing state and local resident support and resource investment to community-based development organizations (CBDO), rather than solely investing in community development corporations. Consequently, the term "community development corporation" is replaced with "community-based development organizations" throughout the bill. The bill adds that the Legislature recognizes CBDOs as contributors to creating jobs in response to federal Work and Gain Economic Self-Sufficiency legislation.

As a policy matter of the state, the bill expressly provides that the state must enable its established communities to restore and expand their affordable housing. It also provides that the purpose of this act is to assist community housing development organizations. The bill provides that the CDCs and the community housing development organizations are also expected to retain employment, among other responsibilities, socially and economically challenged communities.

The bill provides or revises definitions for several terms. The CBDO is defined as a nonprofit entity that is either a CDC or a community housing development organization committed to developing real estate or business enterprises in economically distressed neighborhoods. However, the bill does not provide a definition for community housing development organizations. It revises the definition of CDC to include that the CDC must also facilitate or financially support affordable housing development and job generating businesses. Under the revised definition, CDCs can have multicounty jurisdiction.

Fund is defined as the Operating Trust Fund and “neighborhood comprehensive revitalization strategy” is defined as an organization’s mission and strategies to demonstrate accountability to service area residents. The revised definition of “project” requires that the project objectives be consistent with the appropriate agency’s neighborhood comprehensive revitalization strategy.

The bill requires the Legislature to annually provide funding in the General Appropriations Act for the INVEST program. It further requires the Legislature to apportion funds to loans, incentives, and administrative grants to CBDOs and technical assistance contracts with nonprofit private organizations.

The bill provides that the Department of Community Affairs must also give loans and grant priority to CBDOs whose service areas include a federal empowerment zone and enterprise community.

The bill includes additional criteria for determining administrative grant awards. Competing organizations must be established for less than five years, with no more than two completed real estate or business development projects and an operating budget of less than \$75,000 a year. To be eligible for such grants, agencies must prepare a neighborhood comprehensive revitalization strategy and an annual or 2-year plan that is consistent with its revitalization strategy. The bill provides a reduction in administrative grants to a CBDO in any one year from up to \$100,000 to \$50,000.

The bill provides for an incentive grants program. The program authorizes the DCA secretary to award such grants from the Operating Trust Fund to CBDOs for staff salaries, administrative expenses, and technical assistance directly related to job and revenue generating enterprises. In part, the program:

- Requires eligible CBDOs to apply for competitive funding under three categories: business assistance, commercial, and affordable housing development;
- Allows only CBDOs established for five or more years with experience in real estate or business development to submit multiple proposals;
- Requires that incentive awards for all categories not exceed \$50,000 for an approved project in any given year;
- Sets maximum amount of multi-year incentive awards at \$100,000;
- Restricts the number of incentive awards for certain CBDOs;
- Requires CBDOs to submit a proposal that must contain certain information; and
- Establishes a scoring criteria to evaluate CBDOs’ proposals.

The bill substantially rewords s. 290.0365, F.S., resulting in a program created to provide community-based development training and technical assistance to CBDOs. The purpose of the training and technical assistance program is to provide CBDOs with the proper skills and technical support needed to plan, implement, and manage

job-generating and revenue-generating developments in distressed neighborhoods. The DCA is responsible for securing the expertise to provide such training and technical support.

The bill makes changes to the community development deferred payment loan program. It allows loans permitted under the program to be used for providing first, second, or other subordinated mortgage loans or loan guarantees relating to the construction of affordable housing for the very-low-income and the low-income persons. The bill provides that funding conditions for multifamily units must conform to the State Apartment Incentive Loan program, referred to as SAIL. The DCA may set the loan terms based on requirements associated with tax credit syndication. All loans to CBDOs must be at interest rates not to exceed three percent. The bill directs CBDOs to make good faith efforts to recover full indebtedness from business ventures and guarantors when losses occur.

Section 290.039, F. S., is reworded to require CBDOs that receive administrative funds from the CDCSA program to submit an annual comprehensive report to DCA. The bill outlines the information that must be included in the report. In turn, the DCA is required to compile the CBDO reports into an annual report and submit to the Legislature by January 1 of each year.

The bill provides that CBDOs receiving administrative or incentive grants or loans under the INVEST program is subject to an annual performance review by the DCA. The review determines whether, among other matters, the CBDOs have met their contract objectives in a timely and efficient manner.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to include a critic of the Innovation Neighborhood Vitality and Economies program. It is not clear whether this program is actually the INVEST program or a different program. The OPPAGA is also directed to include in its report an analysis of the affordable housing contributions made by the INVEST program and CBDOs that have received funds under the INVEST program.

**C. APPLICATION OF PRINCIPLES:**

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The bill solicits more accountability from community-based development organizations (CBDO) through additional program criteria and reporting requirements.

- (3) any entitlement to a government service or benefit?

Yes. Under the INVEST program, it appears that a community-based development organization acquires a right to a grant, loan, or other benefit once the state officially bestows the benefit to it. Consequently, that right cannot be abridged without due process.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

The Department of Community Affairs represents that it would need an additional 2 FTEs for a total cost of \$119,304 for the first year and \$109,454, thereafter

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Yes. The bill does not provide for a reduction or elimination of an entitlement to government services; however, the bill lowers the administrative grant fund allocation from \$100,000 to \$50,000.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A



(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Chapter 290, F.S. is affected.

E. SECTION-BY-SECTION RESEARCH:

**Section 1 -- Amends s. 290.0301, F. S.**, changes the Community Development Corporation Support and Assistance Program Act to Invest in Neighborhood Vitality and Economies Act (INVEST); reenacts ss. 290.0311 through 290.0395, F. S.

**Section 2 -- Amends s. 290.0311, F.S.**, broadens INVEST to provide assistance and resource investment to community-based development organizations (CBDO); provides a legislative finding that CBDOs can help create jobs in response to federal WAGES legislation; and reenacts this section.

**Section 3 -- Amends s. 290.032, F.S.**, recognizes that production of affordable housing is part of the state's policy and purpose for revitalizing established communities; states that the purpose of this act is also to assist community housing development; and reenacts this section.

**Section 4 -- Amends s. 290.033, F. S.,** provides definition for CBDOs, revises the definition of “community development corporation”; substitutes the Operating Trust Fund for the Community Development Support and Assistance Trust Fund; defines “neighborhood comprehensive revitalization strategy”; modifies the definition of “project”; and reenacts this section.

**Section 5 -- Amends s. 290.034, F. S.,** requires the Legislature to annually fund the INVEST program in the General Appropriations Act; and makes conforming changes to reflect reference to the term “community-based development organization; and reenacts this section.

**Section 6 -- Amends s. 290.035, F. S.,** makes conforming changes to reflect reference to the term “community-based development organization”; requires service areas to be contained in federal empowerment zones and enterprise communities so that the corresponding CBDO may become eligible for assistance; and reenacts this section.

**Section 7 -- Amends s. 290.036, F.S.,** authorizes the Department of Community Affairs’ secretary to award administrative grants to CBDOs that are established for less than 5 years and an operating budget of less than \$75,000 a year; expands a non-exhaustive list of activities that CBDOs can perform with grant monies; requires the CBDOs applying for administrative grants to include an annual plan or two-year plan with its proposal; and reduces the amount of any administrative grant to CBDOs in one year from up to \$100,000 to \$50,000; authorizes the Department of Community Affairs secretary to award incentive grants and outlines the procedures and requirements of the program; makes conforming changes to reflect reference to the term “community-based development organization”; and reenacts this section.

**Section 8 -- Amends s. 290.0365, F.S.,** rewords section to establish a community-based development training and technical assistance program for CBDOs; and reenacts this section.

**Section 9 -- Amends s. 290.037, F.S.,** makes conforming changes to reflect reference to the term “community-based development organization”; permits loans made under this section for affordable housing be used to provide first, second, or subordinate mortgage loans or loans guaranteed in the construction of very-low-income and low-income persons in target areas; requires less than 25 percent of the total project cost to rehabilitate or construct a multifamily rental unit be under \$250,000; establishes term limits on home ownership construction loans; requires CBDOs to make a good-faith effort to recover indebtedness on the loan in the event of a business loss; and reenacts this section.

**Section 10 -- Amends s. 290.038, F.S.,** makes conforming changes to reflect reference to the term “community-based development organization”; and reenacts this section.

**Section 11 -- Amends s. 290.039, F.S.,** rewords section to extend reporting requirements to CBDOs receiving only an incentive grant award and CBDOs receiving a combination of grant awards; and re-enacts this section.

**Section 12 -- Amends s. 290.0395, F.S.,** subjects CBDOs receiving administrative or incentive grants or loans under the INVEST program to an annual performance review by the Department of Community Affairs; replaces “Auditor General” with the “Office of

Program Policy Analysis and Government Accountability” (OPPAGA); modifies the OPPAGA’s audit evaluation of the INVEST program; requires OPPAGA to critique the Innovative Neighborhood Vitality and Economies Program; requires OPPAGA to include an analysis of the contributions made by CBDOs that have received INVEST funding; changes the reporting date to the Legislature from pre-session 1998 to pre-session 2007; and re-enacts this section.

**Section 13** -- Provides that this act shall take effect October 1 of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

<u>Revenue</u>	<u>1998-99</u>	<u>1999-00</u>
Department of Community Affairs Operating Trust Fund	-0-	-0-
<u>Expenditures</u>		
Department of Community Affairs Operating Capital Outlay Staff Expenses Operating Trust Fund	\$ 24,140	-0-

2. Recurring Effects:

<u>Revenue</u>		
Department of Community Affairs Operating Trust Fund	-0-	-0-
<u>Expenditures</u>		
Salaries and Benefits (5 FTE’s) Staff Expenses (including travel) Operating Trust Fund	\$251,640	\$251,640

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

<u>Revenues</u>		
Department of Community Affairs Operating Trust Fund	-0-	-0-
<u>Expenditures</u>		
Department of Community Affairs Operating Trust Fund	\$275,780	\$251,640

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:**

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

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

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

According to the Department of Community Affairs, lower interest rates offered by INVEST (three percent) passes on to the buyer. Also, community development corporations traditionally have lower profit margins than for-profit businesses, and should pass on the savings to their customers.

3. Effects on Competition, Private Enterprise and Employment Markets:

The Department of Community Affairs states that implementation of INVEST increases the availability of the affordable housing stock which could increase competition and lower prices on homes.

**D. FISCAL COMMENTS:**

According to the Department of Community Affairs, it needs an additional two FTE's to its current staff of three FTE's to implement the provisions of the bill as introduced. The above fiscal impact statement reflects current and proposed FTE's.

Currently, the Community Development Corporation Support and Assistance program is staffed by an administrative assistant, planner IV, and a planning manager. The proposed additional positions are two planner IV's.

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require cities and counties to spend money or take action that requires expenditures of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce revenue raising authority.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the state tax shared with cities and counties

V. COMMENTS:

According to the Department of Community Affairs, the Affordable Housing Study Commission supports INVEST. The Florida Federation of Community Development Corporations voiced some concerns, but has not indicated its position on the program. The Florida Housing Finance Corporation has not responded regarding its position on the bill.

The DCA prefers a straightforward re-authorization of the Community Development Corporation Support and Assistant program. The DCA believes that community development corporations are central players in the process of distressed area community redevelopment. They are not only leveraging a variety (federal, state, local, foundation, banking, etc.) of funding sources, but also generating a substantial amount of physical improvements in their distressed areas. According to the DCA, community development corporations are "making community redevelopment happen, which is what the original legislation intended." However, the DCA is not opposed to the INVEST concept along with its recommended changes to the bill.

The South Florida Housing and Community Development Coalition supports the bill. It states that community-based development corporations serve a unique purpose in that they work in neighborhoods where the for-profit developers will not go without incentives.

The Lee County Employment & Economic Development Corporation, South Florida Housing and Community Development Coalition, and the Florida Federation of Community Development Corporations submitted statements generally urging continued support of community development corporations. The statements are attached to this bill statement.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The sponsor will offer a "strike everything amendment" that attempts to remove some of the concerns of the Department of Community Affairs. The amendment provides more emphasis on the economic development needs of distressed areas, promotes a "holistic" approach to address community development concerns, and makes technical changes to the bill.

The amendment also establishes a three-tiered funding plan for INVEST from the Operation Trust Fund. The plan is designed to ensure equitable geographic distribution of the funding throughout the state.

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VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

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Nayola R. Frazier

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Joan Highsmith-Smith