

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1799 W/ CS (PCB LGV 03-02) Residential Acquisition Fund Act  
**SPONSOR(S):** Local Government & Veterans' Affairs  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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| REFERENCE  | ACTION               | ANALYST                | STAFF DIRECTOR         |
|--|----------------------|------------------------|------------------------|
| 1) <u>Local Government &amp; Veterans' Affairs</u> | <u>17 Y, 0 N</u>     | <u>Highsmith-Smith</u> | <u>Highsmith-Smith</u> |
| 2) <u>Finance and Tax</u>                          | <u>23 Y 1 N w/CS</u> | <u>Monroe</u>          | <u>Diez-Arguelles</u>  |
| 3) _____   | _____                | _____                  | _____                  |
| 4) _____   | _____                | _____                  | _____                  |
| 5) _____   | _____                | _____                  | _____                  |

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### SUMMARY ANALYSIS

This bill creates the "Residential Acquisition Fund Act" (act). The act provides a funding mechanism for certain local governments that contain an area of part of an area designated an Area of Critical State Concern (ACSC), to use for funding projects established in the act. The authorization is construed to be general law authorization pursuant to the state constitution.

The act restricts use of such funds to wastewater/stormwater projects, the acquisition of land for moderate and affordable housing, and the acquisition of environmentally sensitive land. Any projects currently underway or undertaken pursuant to this act are authorized.

The funding mechanism imposes a voter approved fee, derived by applying a percentage of the purchase price, based on a sliding scale, of a single-family or multi-family residence within the ACSC. Single or multi-family residences purchased at a cost below \$250,000 are not subject to the fee. The bill establishes funding priorities and authorizes distribution of the proceeds to be used for the purposes set forth in the act.

The bill provides that ten years after de-designation of an area that has been designated an ACSC, the local government(s) in that area may not impose or collect the fee.

The act does not impact the general revenue fund or the state budget. Certain local governments may experience an increase in funds to be used for certain projects.

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

**STORAGE NAME:** h1799b.ft.doc  
**DATE:** April 24, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

1. To the extent that a local governing board may choose to adopt a resolution or ordinance to impose and collect the fee as provided in this bill, and if subsequently approved by the voters, the local governing body may experience additional governmental administrative duties associated with the collection and disbursement of the funds generated under this bill. Also, closing agents at real estate closing transactions are responsible for collection and transmittal of the fee to the clerk of the governing body of the local government choosing to impose and collect the fee. If approved by the voters, persons purchasing homes in areas where the local governing body has chosen to adopt the appropriate ordinance or resolution to provide for the imposition and collection of the fee under this bill will experience increased costs associated with the purchase of single or multi-family residences.

#### B. EFFECT OF PROPOSED CHANGES:

This bill creates the “Residential Acquisition Fund Act” (act). The act provides a funding mechanism for certain local governments that contain an area or part of an area designated an Area of Critical State Concern (ACSC), to use for funding projects established in the act. The authorization is construed to be general law authorization pursuant to the state constitution.

The act restricts use of such funds to wastewater/stormwater projects, the acquisition of land for moderate and affordable housing, and the acquisition of environmentally sensitive land. All projects currently underway or undertaken pursuant to this act, are authorized. In addition, ten years after the date an area becomes de-designated, pursuant to s. 380.05, Florida Statutes, the local government may not impose or collect the fee.

The funding mechanism imposes a voter approved fee, derived by applying a percentage of the purchase price, based on a sliding scale, on the purchase price of a single-family or multi-family residence within the ACSC. Single or multi-family residences purchased at a cost below \$250,000 are not subject to the fee. The fee must be adopted by ordinance or resolution of the local government and approved at referendum by the electors in the affected area of critical state concern. The ordinance must include the schedule of fees set out in the act.

At the time of closing on the sale of a single or multi-family residential property(ies), the closing agent or representative of the closing agent or the seller, must collect the fee and remit it to the clerk of the governing body. A space must be provided on the buyer and seller disbursement statement, or an addendum accompanying the buyer and seller disbursement statement, identifying the fee and disclosing the amount of the fee to the prospective buyer. The residential acquisition fund, authorized by this act, must be established by ordinance or resolution of the governing body of the local government imposing the fee.

The act provides that seventy percent of the proceeds derived from the imposition and collection of the fee may be used for improvements to wastewater or stormwater facilities; ten percent may be used for the acquisition of land for moderate and affordable housing; and ten percent may be used for acquisition of environmentally sensitive lands as designated by the local government(s) imposing the fee. Ten percent is reserved for other purposes necessary to and resulting from the implementation of the act. In the event that a balance remains in one of these categories at the end of the fiscal year, the board of county commissioners may reallocate up to fifty percent of those funds to another of the approved categories. Division of funds between counties and municipalities is to be in accordance with interlocal agreement.

The bill authorizes distribution of the proceeds by the clerk of the governing body, less an administrative fee of no more than \$% per transaction, to the board of the governing body, quarterly, after the initial distribution. The initial distribution is to occur six months after the initial collection.

Homebuyers in those areas where their local government(s) adopt an ordinance for the imposition of this fee will experience a higher cost in purchasing a single or multi-family residence. Persons purchasing homes at a cost below \$250,000 are not subject to a fee. Persons purchasing a home priced at \$2 million are subject to the fee amounting to \$40,000. Persons purchasing homes priced in between those two amounts are subject to the fee based on a percentage of the purchase price on a sliding scale as follows:

| Purchase Price of Property | Percentage of Purchase Price Charged |
|----------------------------|--------------------------------------|
| \$249,999 or less          | 0%                                   |
| \$250,000 to \$499,999     | 1%                                   |
| \$500,000 to \$999,999     | 1.5%                                 |
| \$1,000,000 to \$1,999,999 | 1.75%                                |
| \$2,000,000 or more        | 2%                                   |

#### Background – Area of Critical State Concern

Established in Chapter 380.05, Florida Statutes, the Area of Critical State Concern (ACSC) program protects resources and public facilities of major statewide significance. Designated ACSCs are:

City of Apalachicola  
City of Key West  
Green Swamp  
Florida Keys (Monroe County)  
Big Cypress Swamp (Miami-Dade, Monroe and Collier counties)

Staff of the Division of Community Planning, Department of Community Affairs (DCA) review all local development projects within the designated areas and may appeal to the Administration Commission any local development orders that are inconsistent with state guidelines. DCA also is responsible for reviewing and approving amendments to comprehensive plans and land development regulations proposed by local governments within the designated areas.

#### C. SECTION DIRECTORY:

Section 1 – Name of Act. -- Names the act the “Residential Acquisition Fund Act.”

Section 2 – Authority to adopt ordinance or resolution; amount of fee; referendum; and disbursement. -- Authorizes adoption of ordinance or resolution by local governing body that contains an area or parts of an area designated an ACSC to provide for imposition and collection of a residential acquisition fee within the ACSC; specifies that fee may not be collected by multiple local governments in the same area; provides that authorization is construed to be general law authorization pursuant to state

constitution; establishes applicability of fee; provides for content of ordinance or resolution by local governing body; provides for voter approval of majority of qualified electors in the affected area; provides for deposit of fees into residential acquisition fund, such fund to be established by ordinance or resolution; provides that the fund be maintained and administered by the clerk of the court; provides for quarterly distribution of funds, after initial distribution, to local governing body for purposes of act; and provides for reasonable administrative costs not to exceed \$5 per transaction.

Section 3 – Applicability of fee; fee schedule. -- Provides schedule of fees based on purchase price of single and multi-family residential property; specifies that commercial, governmental, and unimproved properties are not subject to the fee.

Section 4 – Collection of fee. -- Provides closing agent, a representative of the closing agent or the seller is responsible for collecting and remitting fee to clerk of governing body; and provides for disclosure to buyer and seller on appropriate closing forms at time of closing on the sale or upon the sale of the property.

Section 5 – Utilization of funds. -- Provides that 70 percent of funds must be used for improvements to wastewater/stormwater facilities; 10 percent for acquisition of land for moderate and affordable housing; 10 percent for acquisition of environmentally sensitive lands, designated by local governing body; and provides 10 percent be available for other purposes necessary for, or resulting from, the implementation of this act; provides that fifty percent of the funds remaining in one of these categories at the end of the fiscal year may be reallocated to one of the other permissible uses; specifies that distribution of funds between counties and municipalities shall be in accordance with existing interlocal agreements; provides projects undertaken pursuant to this act or those currently underway may use funds imposed and collected pursuant to this act.

Section 6 – Expiration of Authority. -- Provides that ten years after de-designation of an area that has been designated an ACSC, the local government(s) in that area may not impose and collect the fee.

Section 7 – Provides effective date of upon becoming law.

## **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:**

Certain local governments adopting an ordinance or resolution to impose and collect the residential acquisition fund fee would experience an increase in revenues.

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

Insignificant costs attributable to adoption of the ordinance or resolution and subsequent referendum.

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

Homebuyers in those areas where a local government has adopted an ordinance for the imposition of this fee will experience a higher cost in purchasing a single or multi-family residence. Persons purchasing homes below a cost of \$200,000 are not subject to the fee. Persons purchasing a home priced at \$2 million are subject to the fee amounting to \$40,000. Persons purchasing homes priced in between those two amounts are subject to the fee based on a percentage of the purchase price on a sliding scale as follows:

| Purchase Price of Property | Percentage of Purchase Price Charged |
|----------------------------|--------------------------------------|
| \$249,999 or less          | 0%                                   |
| \$250,000 to \$499,999     | 1%                                   |
| \$500,000 to \$999,999     | 1.5%                                 |
| \$1,000,000 to \$1,999,999 | 1.75%                                |
| \$2,000,000 or more        | 2%                                   |

#### D. FISCAL COMMENTS:

The following information provides an indication of how much this fee could have been expected to raise were it to be imposed in Monroe County as originally filed.

The Monroe County Property Appraiser's Office was contacted for information relating to total number and value of sales of single and multi-family residences for the calendar year 2002. The following chart identifies amounts that might be generated for Monroe County based on sales of single and multi-family residences for the 2002 calendar year:

Monroe County Calendar 2002 Gross sales = \$1,624,340,900.00

| Price of residence         | No. of sales in 2002 | % of total sales | Sales per category | Fee = % of sales price | Revenue Yield (sales x fee)  |
|----------------------------|----------------------|------------------|--------------------|------------------------|------------------------------|
| \$200,000 to \$499,999     | 2,254                | 42.3048 %        | \$687,174,169.06   | 1.00%                  | \$ 6,871,741.69              |
| \$500,000 to \$999,999     | 553                  | 10.3791 %        | \$168,591,966.35   | 1.50%                  | \$ 2,528,879.50              |
| \$1,000,000 to \$1,999,999 | 132                  | 2.4775%          | \$ 40,243,045.80   | 1.75%                  | \$ 704,253.30                |
| \$2,000,000 and up         | 47                   | 0.8821%          | \$ 14,328,311.08   | 2.00%                  | \$ 286,566.22                |
|                            |                      |                  |                    | TOTAL                  | \$10,391,440.71 <sup>1</sup> |

Because the brackets used in this chart are not identical to the brackets used by the Committee Substitute, the fee is expected to generate less money than this chart would indicate.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

<sup>1</sup> Residential sales (single and multi-family) for the calendar year 2002, Monroe County Property Appraiser's Office

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other: None.

**B. RULE-MAKING AUTHORITY:**

Not applicable.

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

If unspent funds remain in a specified spending category at the end of the fiscal year, the board of county commissioners is authorized to redistribute fifty percent of those funds to another category. If the local government imposing the fee is not a county government, the government imposing the fee will not be the entity authorized to redirect the use of these surplus funds.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On April 22, 2003, the Committee on Finance and Tax adopted five amendments to the bill.

Amendment 1 revises the fee schedule so that properties sold for less than \$250,000 as opposed to \$200,000 are excluded from the fee. This amendment also specifies that the fee does not apply to unimproved properties and the refinancing of residential loans

Amendment 2 allows reallocation of fifty percent of the excess funds remaining in one category for other authorized uses upon approval by county commission. The amendment also authorizes distribution of funds between county and municipalities to be made based on any existing agreement subject to the priorities established in section 5 of the act.

Amendment 3 prohibits local government from imposing fee when fee is currently authorized by another local government and removes language providing exclusive authority to the county if the entire county is included in the ACSC.

Amendment 4 imposes a \$5 per transaction cap on the administrative costs retained to the clerk.

Amendment 5 specifies that the residential acquisition fee applies only in the ACSC.