HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1363 CS Affordable Housing
SPONSOR(S): Davis and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Growth Management Committee	9 Y, 0 N, w/CS	Grayson	Grayson
2) Local Government Council	7 Y, 0 N, w/CS	Grayson	Hamby
3) Fiscal Council	18 Y, 0 N, w/CS	Dairty	Kelly
4) State Infrastructure Council		Grayson	Havlicak
5)			

SUMMARY ANALYSIS

HB 1363 addresses the issue of affordable housing in Florida by creating the Community Workforce Housing Innovation Program (CWHIP), and by providing financial and regulatory incentives for the provision of affordable housing. The CWHIP will provide grants and incentives to affordable rental and home ownership projects that target: high-cost counties, including certain areas of critical state concern, certain areas formerly so designated, and counties designated as rural areas of critical economic concern; high growth counties; certain public-private partnerships; workforce housing; essential service personnel; and innovative projects. These terms are defined in the bill. The bill provides standards and guidelines for the CWHIP and for the involvement of the Florida Housing Finance Corporation (Corporation). Approved projects are eligible for certain incentives including: expedited permitting and approvals of development orders; impact fee reductions or alternative fee payment methods; increased density levels of 16 units per acre or higher; reduction of open space and setback requirements; and modification of street requirements and concurrency requirements. Certain manufactured housing projects are eligible for grant funding.

The bill further provides a new definition of “extremely-low-income” persons as those with incomes below 30 percent of area median income and a series of changes to existing state and local housing programs to incentivize the development of very low income housing. The bill expands the Community Contribution Tax Credit Program. The bill provides for local governments and the state to inventory and make available surplus lands for affordable housing. The bill authorizes school boards to provide housing and housing assistance to its teachers and other instructional personnel. Specified independent special districts are authorized to provide housing and housing assistance for eligible persons as are special fire control districts. The bill creates “The Manny Diaz Property Tax Relief Initiative” which directs property appraisers to appraise affordable housing properties based upon rental income. The bill provides relief for disabled veterans from paying certain license and permit fees on housing. The bill provides threshold density bonuses for the provision of workforce housing for both the guidelines that determine when an activity constitutes a development of regional impact and when changes constitute a substantial deviation requiring additional review.

The bill appropriates: $50 for the Home Retrofit Hardening Program; $2 million in fixed capital outlay for the Disaster Recovery Assistance Program; $15 million to provide funds to eligible entities for affordable housing recovery from the 2004 and 2005 hurricanes; $25 million for the Farmworker Housing Recovery and Special Assistance and Development Programs; $400,000 for technical and training assistance; $176 million for the Rental Recovery Loan Program; $82,904,000 for affordable housing hurricane recovery; $50 million to implement the Community Workforce Housing Innovation Program; $33 million for housing for extremely low income persons.

The bill may raise concerns relating to an unconstitutional delegation of legislative authority in conflict with s. 1, Art. III, State Constitution. [See: CONSTITUTIONAL ISSUES].

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates new programs, provides additional rulemaking authority for the Florida Housing Finance Corporation, and increases the workload of other governmental organizations.

Ensure lower taxes - The bill will provide increased tax incentives for persons who donate to eligible sponsors for projects that provide homeownership opportunities for low-income and very-low-income and extremely-low-income households and for donations made to eligible sponsors for all other projects that qualify under the Community Contribution Tax Credit Program. The bill provides 100 percent service-connected permanently and totally disabled veterans confined to wheelchairs an exemption on any license or permit fee to make improvement to their residences.

Promote Personal Responsibility and Empower Families - The bill creates a new program to provide subsidized financing and down payment assistance for affordable housing for essential services personnel. The bill also provides assistance for persons with extremely-low-incomes. The bill increases the opportunities of local governments, governmental entities, and private organizations to support, assist, and encourage families in circumstances occasioning need.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

The state has committed significant resources over the last decade to addressing the severe housing problems facing very-low and low-income residents of this state. The Corporation's programs are funded in part with revenues generated by the documentary stamp tax, which are most often coupled with federal funding. These "affordable housing" programs have traditionally targeted families making 60 percent or less of area median income (AMI) in the rental programs, and those making 80 percent or less of AMI in the home ownership programs.

Multifamily rental projects are funded by the Corporation through the State Apartment Incentives Loan Program (SAIL); the Multifamily Mortgage Revenue Bond (MMRB) program, which provide funding by issuing revenue bonds; and through allocation of federal Low Income Housing Tax Credits (LIHTC), which provides an equity infusion to multifamily affordable housing projects. The multifamily rental programs typically target those making 60 percent or less of the AMI. Home ownership programs consist of down payment assistance, funded by documentary stamp funds and federal funds, along with mortgage loans funded by federal funds and the Single Family Mortgage Revenue Bond (SFMRB) program. Also, the Corporation allocates documentary stamp funds to local governments through the State Housing Initiatives Partnership Program (SHIP). The large majority of SHIP funds are directed by statute toward home ownership activities, generally serving those with incomes up to 120 percent AMI.

Federal housing programs, especially those administered by HUD, typically serve those with the lowest incomes. In recent years, budgets for many of these programs have been cut, putting increasing pressure on state and local governments to provide for persons at the lowest income levels. In the current market, the need for affordable housing has outstripped the production capacity of the existing federal, state, and local affordable housing programs.

Due to dramatic increases in housing costs coupled with modest rises in incomes, many low-income and moderate-income Florida families can no longer afford safe, decent and affordable rental and single family housing. In addition to the needs of the very-low and low-income families noted above, recent steep increases in real estate prices have also effectively priced moderate income families out of the market. Florida is experiencing a critical shortage of housing for individuals who are employed in essential service occupations, such as teachers, police, hospital workers, and others who do not qualify for existing affordable housing programs. As a result, many communities are finding it increasingly difficult to recruit, employ, and retain personnel necessary to provide essential public services to Florida's communities.

The need for "workforce housing" to meet existing and future housing needs for working families whose incomes, from 80 percent to 150 percent AMI, typically make them ineligible for existing housing programs, has recently become increasingly evident.

According to the bill sponsor, the bill is designed to stimulate the construction of home ownership and rental housing in high cost and high growth counties to meet the needs of extremely-low, very-low, low and moderate-income families along this continuum and in particular, essential services personnel who are facing tremendous difficulties living in the communities in which they work.

FLORIDA HOUSING FINANCE CORPORATION (CORPORATION) PROGRAMS

The Corporation administers a number of multifamily, single family and special programs that help low-income Floridians obtain safe, decent affordable housing that might otherwise be unavailable to them. The rental housing programs include the Multifamily Mortgage Revenue Bond, Low Income Housing Tax Credits, State Apartment Incentive Loan, Elderly Housing Community Loan, Florida Affordable Housing Guarantee and Home Investment Partnerships programs.

Homeownership programs include the First Time Homebuyer Program, the Homeownership Loan Program and down payment assistance programs such as the Homeownership Assistance Program, HOME Down Payment Assistance, Homeownership Assistance for Moderate Income, and Three Percent Cash Assistance. In addition, the Corporation offers the Mortgage Credit Certificate program; and several Special Programs including the Predevelopment Loan Program, State Housing Initiatives Partnership, Demonstration Loans and the Affordable Housing Catalyst Program. The programs further addressed below are implicated in HB 1363.

STATE ASSISTANCE INITIATIVE LOAN PROGRAM: The State Apartment Incentive Loan Program (SAIL)[1], created in 1992, provides mortgage loans or loan guarantees to sponsors providing affordable housing to very-low income individuals. SAIL is funded by the State Housing Trust Fund and administered by the Corporation.

The Florida Housing Finance Corporation has the authority to underwrite and make state apartment incentive loans or loan guarantees, at an interest rate of three percent to nine percent, to sponsors that:

- Use tax-exempt financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes which meet the income eligibility requirements of s. 8 of the United States Housing Act of 1937;
- Use taxable financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, which shall be adjusted by the corporation for family size;
- Use the federal low-income housing tax credit, and the project meets the tenant income eligibility requirements of s. 42 of the Internal Revenue Code of 1986; or
- Locate a project in a county that includes, or has included within the previous five years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing, and 100 percent of the units in the project are set aside for

[1] s. 420.5087, F.S.

person or families who have income below 120 percent of the state or local median income, whichever is higher.

Very-Low Income Fund Reservation: Section 420.5087(3), F.S., requires that during the first 6 months a percentage of SAIL funds be reserved for each of the following groups: commercial fishing workers and farmworkers, families, persons who are homeless, and elderly persons. The percentage of SAIL funds reserved for each group is determined by using the most recent statewide very-low-income rental housing market study available at the time of publication of each notice of fund availability, but the reservation of funds to commercial fishing workers and farmworkers, families, and the elderly may not be less than 10 percent of the funds available at that time. Currently, 24 percent of the total SAIL funds are reserved for the elderly.

Elderly Housing Community Loan Program (EHCL): Section 420.5087(3)(d), F.S., requires that 10 percent of the amount reserved for the elderly be reserved to provide loans to sponsors of housing for the elderly to provide for building preservation, health, or sanitation repairs or improvements which are required by federal, state, or local regulation or code, or lifesafety or security-related repairs or improvements to such housing. This part of the program is referred to as the Elderly Housing Community Loan Program (EHCL). Under the EHCL Program, sponsors are required to match the loan amount received at a rate of 15 percent. Funds received from matching are used to supplement the loan amount received to pay the cost of repair or improvement for which these funds are available.

According to the Florida Housing Finance Corporation, the match requirement is used to leverage state funds and make more fiscally prudent investments. Prior to the increase in the available loan amount, sponsors were awarded additional points during the loan application process for exceeding the minimum match requirement by a certain percentage. With the current increased loan amount and match rate, this process is no longer being used. However, under general operating policy, sponsors are still encouraged to match at the highest percentage possible, which can exceed the minimum percentage amount set in statute.

Prior to 2005, loans under the EHCL Program were capped at $200,000 with the requirement of a minimum match of 15 percent from the sponsor. During the 2005 legislative session, the Legislature increased the maximum loan amount from $200,000 to $750,000. The increase in the maximum loan amount had the practical effect of increasing the potential match requirement from $30,000 to $112,500.

FLORIDA HOUSING OWNERSHIP ASSISTANCE PROGRAM (HAP): The HAP Construction Loan provides a five-year, zero percent interest construction loan to eligible developers for the lesser of 33 percent of the total development cost or $1,000,000. Eligible developers include nonprofit developers and nonprofit sponsors, established pursuant to ch. 617, F.S., and local governments and public housing authorities, with preference given to Corporation certified community based organizations, and to developments that have received funding from Florida Housing's Predevelopment Loan Program.

A minimum of 30 percent of the homes must be sold to eligible homebuyers who have an adjusted income that does not exceed 50 percent of the AMI, and a minimum of another 30 percent of the homes must be sold to eligible homebuyers who have an adjusted income that does not exceed 80 percent AMI. Any remaining homes must be sold to persons or households that have an adjusted income that does not exceed 150 percent AMI.

The HAP Permanent Loan Program provides a zero percent interest nonamortized second mortgage loan to eligible homebuyers purchasing a home built by a participating developer. In order to be eligible, a person's or household's adjusted income cannot exceed 80 percent AMI. This loan is available in an aggregate amount not to exceed the lesser of $30,000, 25 percent of the purchase price of the home, or the amount necessary to meet credit underwriting criteria, based on the monthly mortgage payment to income underwriting ratio. The term of the loan is the lesser of 30 years or the term of the first mortgage, and is due upon maturity, sale, refinancing or rental of the property.

<u>STATE HOUSING INITIATIVES PARTNERSHIP PROGRAM</u>: The Corporation administers the State Housing Initiatives Partnership program (SHIP), which provides funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very-low, low and moderate income families.

SHIP funds are distributed on an entitlement basis to all 67 counties and 48 Community Development Block Grant entitlement cities in Florida. The minimum allocation is $350,000 and the maximum allocation is over $9 million. In order to participate, local governments must establish a local housing assistance program by ordinance; develop a local housing assistance plan and housing incentive strategy; amend land development regulations or establish local policies to implement the incentive strategies; form partnerships and combine resources in order to reduce housing costs; and ensure that rent or mortgage payments within the targeted areas do not exceed 30 percent of the AMI limits, unless authorized by the mortgage lender.

A minimum of 65 percent of the funds must be spent on eligible homeownership activities; a minimum of 75 percent of funds must be spent on eligible construction activities; at least 30 percent of the funds must be reserved for very-low income households (up to 50 percent of the AMI); an additional 30 percent may be reserved for low income households (up to 80 percent of AMI); and the remaining funds may be reserved for moderate-income households (up to 120 percent of AMI). It is important to note that no more than five percent of SHIP funds may be used for administrative expenses. However, if a local government makes a finding of need by resolution, a local government may use up to 10 percent for administrative expenses. Funding for this program was established by the passage of the 1992 William E. Sadowski Affordable Housing Act. Funds are allocated to local governments each month on a population-based formula. These funds are derived from the collection of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust Fund. Total actual disbursements are dependent upon the appropriation of these documentary stamp collections.

COMMUNITY CONTRIBUTION TAX CREDITS

In 1980, the Florida Legislature established the Community Contribution Tax Credit Program to encourage private sector participation in revitalization and housing projects. The program offers a tax incentive (a corporate income tax credit, insurance premium tax credit or a sales tax refund) equal to 50 percent of the amount donated up to $200,000 annually to sponsors who have been approved to participate in the program. Eligible project sponsors under the program include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards. Eligible projects include the construction, improvement or rehabilitation of housing, commercial, industrial or public facilities, and projects that promote entrepreneurial or job development opportunities for low-income persons.

The Office of Tourism, Trade and Economic Development (OTTED) is responsible for administering the program by reviewing sponsor project proposals and tax credit applications. To date, 167 sponsors/projects have been approved to participate in the program. After the taxpayer receives approval for community contribution tax credits, it must claim the credit from the Department of Revenue. Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years. Unused credits against sales taxes may be carried forward for three years.

The Florida Legislature has amended the dollar cap and the expiration date of the program on numerous occasions. The program began with a $3 million per year cap that currently is designated at $12 million. The expiration of the program has been extended from 2005 to June 30, 2015. According to the OTTED, Habitat for Humanity is the primary recipient of donations for housing projects under the Community Contribution Tax Credit Program.

EFFECT OF PROPOSED CHANGES

HB 1363 addresses the issue of affordable housing in Florida by creating the Community Workforce Housing Innovation Program, and by creating law and amending existing law to provide financial and regulatory incentives for the provision of affordable housing. The bill addresses various aspects of the income spectrum from extremely-low-income persons, defined as a person or family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households within the state, to those persons earning less than 150 percent of AMI. The effects of this bill are described in greater detail below under the headings Community Workforce Housing Innovation Program; and Other Financial and Regulatory Incentives; and Miscellaneous.

FLORIDA HOUSING FINANCE CORPORATION PROGRAMS

The bill creates the Community Workforce Housing Innovation Program (s. 420.5095, F.S.) and amends: the State Apartment Incentive Loan Program (SAIL); the Florida Homeownership Assistance Program (HAP); and the State Housing Initiatives Partnership (SHIP).

COMMUNITY WORKFORCE HOUSING INNOVATION PROGRAM (CWHIP) - The bill creates the CWHIP for the purpose of providing affordable rental and home ownership community workforce housing for essential services personnel with medium incomes in high-cost and high-growth counties. The program is designed to use regulatory incentives and state and local funds to promote local public-private partnerships and to leverage government and private sources.

Florida Housing Finance Corporation (Corporation) - The bill provides the Corporation with authority to provide CWHIP loans, subject to the availability of appropriated funds. The loans may be forgivable and are available to applicants for construction or rehabilitation of rental or home ownership workforce housing in eligible counties. The bill directs the Corporation to establish a funding process and selection criteria to distribute the annually appropriated funds which may be used with other Corporation and private-sector resources. The bill also directs the Corporation to provide incentives for local governments to use local affordable housing funds to assist in meeting the affordable housing needs of this program's eligible persons.

Definitions and funding targets: The bill requires CWHIP to target specified areas, and directly or indirectly defines several terms, including those targets, as outlined below. The bill limits funding to one project per county per year and requires that the Corporation must seek to achieve a 70 percent high-cost, 30 percent high-growth ratio in its annual project funding. However, the bill provides that when one project has been funded in each applying high-growth and high-cost county, then the Corporation may fund other eligible projects.

- "High-cost counties" is defined as those counties in which the median sales price of a single-family home using the most recent county level statistics is above the state median sales price of a single-family home; areas of critical state concern for which the Legislature has declared its intent to provide affordable housing, and areas designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation, and counties designated as rural areas of critical economic concern. The bill requires the Corporation to annually develop the list of high-cost counties.
- "Areas of critical state concern" is indirectly defined as those areas designated under s. 380.05, F.S., for which the Legislature has declared its intent to provide affordable housing.[2] One of the

[2] 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 Areas of Critical State Concern are: City of Apalachicola; City of Key West; Green Swamp; Florida Keys (Monroe County); and the Big Cypress Swamp (Miami-Dade, Monroe and Collier counties). In ACSCs, Department of Community Affairs (DCA) staff review all local development projects and may appeal to the Administration Commission any local development orders that are inconsistent with state guidelines. The DCA is also responsible for reviewing and approving amendments to comprehensive plans and land development regulations proposed by local governments within the designated areas.

five designated ACSC areas appears to comply with this indirect definition: Florida Keys ACSC (s. 380.0552, F.S.).

- "High-growth counties" is defined as those counties that demonstrate significantly high rates of growth in K-12 public school students and a substantial number of open teaching positions currently and projected for the next school year. To qualify, a county's school district must have been in the top 10 school districts in the state for fastest student population growth as a percentage rate of increase for the previous 5 years, as defined by the Department of Education. Prioritized are those school districts that have the greatest number of teaching position vacancies.
- "Public-private partnerships" is defined to include substantial involvement of at least one county, municipality, or public sector entity (examples given are: school districts, special districts, and other units of local government) and at least one not-for-profit of for-profit project partner. Partnerships are encouraged to include one or more private sector business or charitable entities and may be any form of business entity, including a joint venture or contractual agreement.
- "Workforce housing" is defined as housing affordable to natural persons or families whose total annual household income does not exceed 150 percent of the AMI, adjusted for household size or a higher area median income in areas of critical state concern or in areas designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation.
- "Essential services personnel" is defined as persons in need of affordable housing who are employed in areas in which they are considered essential service personnel as defined in that area's local housing assistance plan as provided for in the SAIL program.
- "Innovative projects" is indirectly defined to include new construction or rehabilitation of existing housing, mixed-income housing, or commercial and housing mixed-use elements.

Targets: The bill mandates that the Corporation target the following, as defined in the bill:

- High-cost and high-growth counties; areas of critical state concern meeting specified criteria; and areas designated as an area of critical state concern for at least 20 consecutive years prior to designation.
- Public-private partnerships.
- Workforce housing.
- Essential services personnel in need of affordable housing.
- Innovative projects.

Priority Funding Consideration: The bill provides priority funding consideration to projects where the local jurisdiction has allowed workforce housing incentives to promote financial viability, successful development, and ongoing maintenance of such housing developments. Such incentives include the following as related to the provision of affordable housing:

- Expediting of the approval of development orders and development permits, as defined respectively in s. 163.3164(7) and (8), F.S.
- Reducing or wavier of, or providing an alternative method of fee payment, or impact fees.
- Increasing density levels, providing density bonuses of up to 16 units or higher per acre, except in coastal high-hazard areas.
- Reserving infrastructure capacity for affordable housing in the local comprehensive plan.
- Allowing additional affordable housing units in residential zoning districts.
- Allowing mixed land uses.
- Reducing open space, building setback requirements, road widths, parking, and other requirements not essential to protect the public health, safety and welfare, or the environment.
- Allowing zero-lot-line or other flexible lot configurations.
- Modifying or reducing traffic concurrency requirements by up to 25 percent.

Additionally, the bill requires that local transportation infrastructure funding will be considered for prioritization by metropolitan planning organizations.

The bill also requires that CWHIP regulatory incentives will be considered acceptable by local governments if either of the following is satisfied:

- The applicant receives a letter of support from the local government; or
- A vote of no objection is taken by the local governing body within 60 days of the Corporations' receipt of the application.

Grant Eligibility: The bill provides that the Corporation, subject to appropriations, has the authority to provide grants for construction or rehabilitation of rental or single-family community workforce housing, providing that the applicant meet at least one of the following criteria:

- Sets aside at least 80 percent of the units for workforce housing and sets aside at least 50 percent of the units as prioritized for essential services personnel.
- For rental projects:
  - Up to 120 percent AMI - rents for all workforce housing units serving those with incomes up to 120 percent of AMI shall be restricted at the appropriate income level using the restricted rents for the federal low-income housing tax credit program.
  - Up to 150 percent of AMI - rents for workforce housing units serving those with incomes up to 150 percent of AMI shall be restricted to those established by the Corporation, not to exceed 40 percent of the maximum household income adjusted to unit size.
- For home ownership:
  - Limits the sales price of a detached, townhome or condominium unit to not more than the median sales price for that type of unit in that county and requires that all eligible purchasers of home ownership units occupy the home as their primary residence.
- Demonstrate that the program applicant is a public-private partnership of at least one local government or special district public entity and one private not-for-profit or for-profit partner.
- Demonstrate how the applicant will use the regulatory incentives and includes any local government letters of support for the incentives outlined in newly created s. 420.9075(8)(b)1., F.S.
- Demonstrate that the applicant possesses title to or site control of land and evidences availability of required infrastructure.
- Provides supporting research or facts of rental or home ownership workforce housing demand and need.
- Have at least 15 percent, evidenced by a letter of commitment, of the total development cost provided by grants, donations of land, or contributions from other sources.
- Demonstrate accessibility to employment opportunities or a plan to provide transportation access to such opportunities.
- Demonstrate a marketing and sales plan to ensure residents fit the income requirements and program workforce demands.
- Provide a development cost pro forma for the project.
- Demonstrate the applicant's affordable housing development and management experience.
- Demonstrate the long-term affordability of the rental or homeownership units.

The bill provides that projects eligible for grants may include certain manufactured housing that includes local contributions or financial strategies.

Review Committee: The bill requires the Corporation to establish a review committee and scoring system for evaluation and competitive ranking of submitted applications. The ranking is required to ensure an opportunity for a greater number of high-cost, high-growth counties to receive project funding.

Interest Rate: The bill provides that the Corporation may award loans with a one to three percent interest rate which may be forgiven if the project continues to meet rental or ownership criteria outlined in the newly created s. 420.9075(4), F.S. The Corporation is required to develop rules and guidelines to set the terms under which the accrued loan interest may be forgiven.

Maximum Administrative Overhead: The bill authorizes the Corporation to use no more than two percent of the annual appropriation for administration and compliance monitoring.

Down Payment Assistance Program: The bill requires the Corporation to develop and implement a CWHIP down payment assistance program. There are no standards or guidelines provided to the Corporation regarding this program. Such authorization appears to be an unauthorized delegation of legislative authority in conflict with s. 1, Art. III, State Constitution. [See: CONSTITUTIONAL ISSUES].

Annual Review and Report: The bill requires the Corporation to conduct an annual review of the success of the CWHIP; and to ascertain whether the program is meeting the housing needs of high-cost and high-growth counties. Additionally, the bill requires the Corporation to review ways to improve public and private sector incentives and barriers to affordable and community workforce housing. The Corporation is required to submit any recommendations for strengthening the program to the Governor, the Speaker of the House of Representatives, and the President of the Senate within 2 months of the end of the Corporation's fiscal year. The bill authorizes the Corporation to request assistance in these matters from the Department of Community Affairs (DCA) or the Affordable Housing Study Commission[3].

State Apartment Incentive Loan Program (SAIL) – The bill amends the SAIL program as follows:

- Authorizes the Corporation to:
  - Set a SAIL loan interest rate at between one to nine percent and to set an interest rate based on the pro rata share of units set aside for homeless residents if the total of such units is less than 80 percent of the total units.
  - Make loans exceeding 25 percent of project costs when the project serves extremely-low-income persons.
  - Forgive indebtedness for a share of the loan attributable to the units in a project reserved for extremely-low-income persons.
- Changes the categories of counties within which 10 percent of program funds must be allocated during successive 3-year periods to:
  - Counties with a population of 825,000 or more (from more than 500,000).
  - Counties with a population of more than 100,000 but less than 825,000 (from between 100,000 and 500,000).
  - Counties with a population of 100,000 or less.
- Lowers the matching commitment of a sponsor of an elderly housing community to at least 5 percent (from at least 15 percent).
- Authorizes the Corporation to make the term of its encumbrance coterminous with the longest term of superior loans.
- Authorizes the Corporation to waive a requirement related to the maximum of a loan under certain conditions for projects which reserve units for extremely-low-income person.
- Amends the project ranking criteria as follows:
  - Provides an exclusion from the program ranking criteria that favors the lowest project loan/cost ratio for that share of the loan attributable to units serving extremely-low-income persons.
  - Gives ranking credit to projects that reserve units for extremely-low-income persons.
- Limits the sale, transfer, or refinancing of Corporation loans to those that are consistent with fiscal program goals and the preservation or advancement of affordable housing for the state.
- Authorizes rent controls when the sponsor has committed to set aside units for extremely-low-income persons, which rents shall be restricted at the level applicable for federal low-income tax credits.

Florida Homeownership Assistance Program (HAP) – The bill amends the HAP program as follows:

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[3] The Affordable Housing Study Commission was created in 1986 pursuant to the provisions of s. 420.609, F.S. Each year the Commission makes public policy recommendations to the Governor and Legislature to stimulate community development and revitalization to promote the production, preservation, and maintenance of safe, decent affordable housing for all Floridians.

- Authorizes the Corporation to forgive the repayment of loans on the sale, transfer, refinancing, or rental of secured property.
- Authorizes the Corporation to establish subsidiary business entities, and to provide such subsidiary entities with rulemaking authority necessary to carry out the purposes of taking title to and managing and disposing of property acquired by the Corporation.
- Expands the scope of the HAP program to moderate-income persons in purchasing a primary residence.
- Authorizes the Corporation to not require the balance of loan be due at the time the property is sold, refinanced, rented, or transferred.
- Raises the income level for eligible person to 120 percent from 80 percent of the state or local median income.
- Provides that loans may not exceed the lesser of 35 percent of the purchase price of the amount necessary to enable the purchaser to meet credit underwriting criteria.
- Deletes a loan preference for community development corporations as defined in s. 290.033, F.S.
- Removes the temporal reservation of funds.

<u>State Housing Initiatives Partnership (SHIP)</u> - The bill amends the SHIP program as follows:

- Provides that each local housing assistance plan shall include a definition of essential service personnel for county or eligible municipality including, but not limited to, teachers and educators; other school district, community college and university employees; police and fire personnel, health care personnel, skilled building trades personnel, and other job categories.
- Encourages eligible local governments to develop a strategy within its local housing assistance plan that emphasizes recruitment and retention of essential service personnel.
- Requires local government to verify compliance with the eligibility criteria.
- Encourages eligible local governments to develop a strategy within in its local housing assistance plan that addresses the needs of persons who are deprived of affordable housing due to closure of a mobile home park or conversion of affordable rental units to condominiums.
- Provides that 65 percent of the funds of each eligible local government's local housing distribution be reserved for rehabilitation and construction of home ownership units for eligible extremely-low-income, low-income or very-low-income persons.
- Authorizes the alternative use of U.S. Department of the Treasury established standards for determining the time period for calculating the average area purchase price relative to fund awards under the program.

<u>Additional Rulemaking Authority</u>: The bill provides additional rulemaking authority to the Corporation to adopt rules:

- For the intervention, negotiation of terms or other actions necessary to further the goals or avoid default of a program loan.
- For the periodic reporting of data, including demographic data on all housing financed through Corporation programs and for participation in a housing locator system.
- Changes the criteria to determine the maximum funding level for the Corporation's compliance monitoring activities to one-quarter of one percent of the annual appropriation (from $200,000).

<u>Extremely-Low-Income</u>

The bill defines "extremely-low-income" to mean one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households with the state.

The bill authorizes the Corporation to adjust this amount annually by rule to provide that in lower income counties the definition may exceed 30 percent of the AMI and that in higher income counties, extremely-low-income may be less than 30 percent of AMI.

Ad Valorem Tax Incentives

Assessment of Affordable Housing Properties

Capitalization Rate: The bill requires that, if a capitalization rate is used to assess just valuation for affordable housing property, then the property appraiser must use a capitalization rate that is comparable to a rate used for non-affordable market-based properties.

"The Manny Diaz Affordable Housing Property Tax Relief initiative": The bill creates "The Manny Diaz Affordable Housing Property Tax Relief Initiative" for the purpose of assessing just valuation of certain affordable housing properties serving persons with incomes defined as low, moderate, and very low. The bill requires property appraisers, for assessment purposes, to recognize the actual rent income from rent-restricted units in such properties and to utilize an income approach for the assessment of the rents from such units. The bill specifies three types of properties to which this approach applies.

Exemptions

Affordable Housing Property Exemption for Nonprofit Entity Ownership**:** Current law provides a property exemption for affordable housing property owned entirely by a nonprofit entity. The bill defines the phrase "ownership by a nonprofit entity" as either:

- A corporation not for profit; or
- A Florida limited partnership the sole general partner of which is either a corporation not for profit or a Florida limited liability company the sole member of which is a corporation not for sale.

Additionally, the bill provides that in order to qualify for this exemption, the non-profit entity must affirmatively demonstrate to the property appraiser that no benefit will inure to the benefit of for profit persons or entities or for a nonexempt purpose.

Community Contribution Tax Credits

The bill increases the total amount of community contribution tax credits which may be granted all programs approved under ss. 212.08, 220.183 and 624.5105, F.S., by $1 million. It amends ss. 212.08, 220.183 and 624.5105, F.S., respectively, in a substantially identical fashion, to provide new allocations of the available $13 million in tax credits: (1) an annual allocation of $10 million of tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for extremely-low-income, low-income or very-low-income households as defined in s. 420.9071(19)[4] and (28),[5] F.S., and (2) a $3 million annual allocation for all other projects.

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[4] Section 420.9071(19), F.S., defines "low-income person" or "low-income household" to mean one or more natural persons or a family that has a total annual gross household income that does not exceed 80 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever amount is greatest. With respect to rental units, the low-income household's annual income at the time of initial occupancy may not exceed 80 percent of the area's median income adjusted for family size. While occupying the rental unit, a low-income household's annual income may increase to an amount not to exceed 140 percent of 80 percent of the area's median income adjusted for family size.

[5] Section 420.9071(28), F.S., defines "Very-low-income person" or "very-low-income household" to mean one or more natural persons or a family that has a total annual gross household income that does not exceed 50 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the nonmetropolitan median for the state, whichever is greatest. With respect to rental units, the very-low-income household's annual income at the time of initial occupancy may not exceed 50 percent of the area's median income adjusted for family size. While occupying the rental unit, a very-low-income household's annual income may increase to an amount not to exceed 140 percent of 50 percent of the area's median income adjusted for family size.

The bill also eliminates the requirement that the Office of Tourism, Trade, and Economic Development reserve specific percentages of certain annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for certain households and for other projects. These sections of the bill also eliminate provisions that allow tax credits that are unused for home ownership or all other projects to be used for any approved project after the first six months of the state fiscal year.

Authorizing Housing Assistance

School Boards

The bill authorizes district school boards to make certain school board lands, acquired prior to January 1, 2006, available to a private developer or nonprofit housing organization for the purpose of providing housing assistance to teachers and other instructional personnel. In order to provide this assistance, the personnel must be eligible under the provisions of ch. 420, F.S., and the school board must declare the land as surplus and not need for any facility identified in the district's facilities work program required pursuant to s. 1013.35, F.S.

Additionally, the bill authorizes school boards to provide affordable housing for teachers and other instructional personnel independently or in conjunction with other agencies as described in s. 1001.43(5), F.S.

Special Districts

The bill authorizes certain independent special districts to provide specific types of housing assistance as follows:

- Community Development Districts (CDD): The bill authorizes any CDD created pursuant to ch 190, F.S., to provide housing and housing assistance for persons whose total annual household income does not exceed 140 percent of the AMI, adjusted for family size.
- Independent Special Districts and Drainage and Water Control Districts: The bill authorizes any independent special district created pursuant to ch. 189, F.S., and drainage and water control districts created pursuant to ch. 298, F.S., to provide housing and housing assistance for its employed personnel whose total annual household income does not exceed 140 percent of the AMI, adjusted for family size.
- Independent Special fire Control Districts: The bill amends the general powers of independent special fire control districts to authorize them to provide housing and housing assistance for their employed personnel whose total annual household income does not exceed 140 percent of the AMI, adjusted for family size.

Comprehensive Planning

Small Scale Amendments

Accessory Dwelling Units: The bill adds extremely-low-income persons to the categories of uses for which existing law authorizes a local government to adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use.

Small Scale Comprehensive Plan Amendment: Existing law provides that certain small scale development activities requiring a comprehensive plan amendment may be approved through a summary process known as a small scale amendment. The bill removes an exception from the limitation on density for property subject to:

- An extended use agreement recorded in conjunction with the issuance of tax exempt bond financing; or
- An allocation of federal tax credits issued through the Corporation, or a local housing finance authority authorized by the Division of Finance of the State Board of Administration.

Developments of Regional Impact (DRI)

Substantial Deviation Density Bonus: Existing law provides that any proposed change to an approved DRI that exceeds statutory thresholds, known as a substantial deviation, must undergo additional DRI review. The bill provides a residential density bonus to increase the density threshold by the greater of 15 percent or 100 units when 20 percent of the increase in the number of dwelling units is dedicated to the construction of workforce housing. The bill defines "workforce housing" for purposes of this provision as housing that will be made permanently affordable to a person who earns less than 140 percent of the AMI, as provided in a recorded land use restriction agreement.

Statewide Guidelines and Standards Density Bonus: Existing law provides statewide guidelines and standards for development required to undergo DRI review. The bill provides a residential density bonus where a developer demonstrates that at least 15 percent of the residential units will be dedicated to workforce housing. Specifically, the bonus provides an increase of 20 percent in the number of units. "Workforce housing" is defined as noted above.

Density Incentives for Land Donation

The bill creates new law to provide density bonus incentives for land donations for affordable housing purposes for extremely-low-income, very-low-income, low-income or moderate-income persons. A local government may provide density bonus incentives to any landowner who voluntarily donates fee simple interest in real property to the local government for affordable housing purposes. The authorized bonus may provide one to four dwelling units per gross acre of donated land. The density bonus would be applied to any land within the local government's jurisdiction as long as residential is an allowable use on the receiving land and that the overall density of the receiving land does not exceed six units per gross acre. The award of density bonus, identification of the receiving land and any other conditions are subject to local government approval. The bill also provides specific requirements in order for the density bonus to be authorized.

Surplus State and Local Government Real Property

County Property: The bill requires each county to prepare an inventory list of all real property held in fee simple by the county within its jurisdiction. The list is to be prepared by January 1, 2007, and each three years thereafter. Criteria for the list are provided. The bill requires county planning staff to review the list and to identify each property that is appropriate for use as affordable housing. A six-month period is provided for this review. Properties identified as appropriate for affordable housing shall be offered for sale with the proceeds used to purchase land for the development of affordable housing. Alternatively:

- The proceeds may be donated to the Local Government Housing Trust Fund;
- The proceeds may be donated to a nonprofit housing organization for the construction of permanent affordable housing; or
- The land may be sold with a restriction requiring development on the property to include a specified percentage of permanent affordable housing.

The bill prescribes a public hearing process and provides restrictions on the potential pool of purchasers. Further, the bill provides for certain deed restrictions to prevent the sale of the unit at a price that exceeds the affordable housing threshold for low or moderate-income persons. The bill provides for definitions consistent with those found at s. 420.0004, F.S.

Municipal Property: The bill provides similar requirements for municipalities to prepare the real property inventory; and to offer for sale properties appropriate for use as affordable housing.

State Property: The bill amends existing law related to the surplus state lands. The bill provides that a local government may request that state lands be specifically declared surplus lands for the purpose of providing affordable housing. Additionally, the bill authorizes affordable housing as a permitted use for surplus state lands; and provides that when such lands are conveyed to local governments, they shall be disposed of consistent with the provisions outlined above.

Disabled Veterans License and Permit Fee Exemption

Section 295.16, F.S., allows veterans to be exempt from paying building license or permit fees to any county or municipality for wheelchair accessibility improvements made upon a mobile home, when certain criteria are met. The bill increases the type of residences eligible for the permit fee exemption in s. 295.16, F.S to include any dwelling they own.

This bill will enable a larger population of eligible, disabled veterans to take advantage of the existing fee exemption, reducing the costs that they are obligated to pay in order to make their homes wheelchair accessible. This bill does not place any restrictions on the number of wheelchair accessibility improvements allowed nor does it appear to place any restrictions on the number of times improvements may be made to the dwelling.

Farmworkers

The bill repeals s. 420.37, F.S., relating to additional powers of the Corporation, at the suggestion of the Corporation. The bill also repeals s. 420.530, F.S., the State Farmworker Housing Pilot Loan Program established as a pilot project by the 2000 Legislature.

Home Retrofit Hardening

The bill requires the DCA to establish the Home Retrofit Hardening Program as a competitive grant program to fund improvements to homes constructed before the implementation of the current Florida Building Code when the improvements will directly affect the ability of the home to withstand hurricane force winds and improve the home's rating for home insurance. While site-built homes and mobile homes are eligible for these funds, priority will be given to low-income homeowners who live in wind-borne debris regions as defined by the Florida Building Code.

The bill provides for this program to be implemented by local governments, regional planning councils, or private nonprofit agencies under the direction the DCA.

The bill provides program funds award guidance to the DCA and criteria for the use of the funds and directs the DCA to keep administrative costs to a minimum not to exceed five percent of the appropriation.

The bill does not require a match to receive a grant, but provides DCA may consider matching funds during the competitive review process. Each project grant for an individual home retrofit may not exceed $10,000.

Appropriations

The bill provides the following appropriations:

Rental Recovery Loan Program: The bill appropriates $176.6 million to the Corporation from the State Housing Trust Fund for the Rental Recovery Loan Program.

Communities Impacted by Hurricanes Wilma and Katrina: The bill appropriates $82.904 million from the Small Cities Community Development Block Grant Trust Fund to the DCA to be used consistent with the Federal Register 71 FR 7666, February 13, 2006, and the Action Plan for Disaster Recovery approved by the U. S. Department of Housing and Urban Development to meet the needs of communities impacted by Hurricanes Wilma and Katrina, with a prioritization toward affordable housing in the most impacted areas of the state.

CWHIP: The bill appropriates $50 million from the Local Government Housing Trust Fund to the Corporation to fund the CWHIP program.

Home Retrofit Hardening Program: The bill appropriates $50 million from the U. S. Contributions Trust Fund to DCA in fixed capital outlay funds to fund the Home Retrofit Hardening Program.

Extremely-Low-Income Persons Housing Assistance: The bill appropriates $33 million from the Local Government Housing Trust Fund to the Corporation in nonrecurring funds for fiscal year 2006-2007 to assist in the production of housing units for extremely-low-income persons.

Farmworker Housing Recovery and the Special Housing Assistance and Development Programs: The bill appropriates $25 million from the State Housing Trust Fund to the Corporation for the Farmworker Housing Recovery and the Special Housing Assistance and Development Programs; and $400,000 for technical and training assistance.

Hurricane Housing Recovery Program: The bill appropriates $15 million from the Local Government Housing Trust Fund to the Corporation to fund the Hurricane Housing Recovery Program.

Disaster Recovery Assistance Program: The bill directs the DCA to establish the Disaster Recovery Assistance Program as a grant program to fund repair and rehabilitation to homes in communities severely impacted by the 2004 and 2005 hurricanes. The funds are to be leveraged and targeted to the most vulnerable citizens. The bill appropriates $2 million in fixed capital outlay from the State Housing Trust Fund in DCA.

C. SECTION DIRECTORY:

Section 1 – Creates s. 125.379, F.S., relating to the disposition of county property for affordable housing.

Section 2 – Amends s. 163.31771, F.S., adding a reference to definition of “extremely-low-income;” adding extremely-low-income to legislative findings and to the definition of an “affordable rental;” and conforming cross-references.

Section 3 – Amends s. 163.3187(1) (c), F.S., removing an exception from the comprehensive plan small scale amendment provisions.

Section 4 – Creates s. 166.0451, F.S., relating to the disposition of municipal property for affordable housing.

Section 5 – Creates s. 189.4155 (6), F.S., authorizing specified independent special districts to provide housing and housing assistance.

Section 6 – Creates s. 191.006 (19), F.S., amending independent special fire control district general powers to allow provision of housing and housing assistance for employed personnel.

Section 7 – Creates s. 193.017 (5). F.S., relating to capitalization rates used to assess property value.

Section 8 – Creates s. 193.018, F.S., creating “The Manny Diaz Affordable Housing Property Tax Relief Initiative”; requiring the use of an actual rental income basis for the purpose of assessing certain affordable housing properties.

Section 9 – Amends s. 196.1978, F.S., providing an affordable housing property exemption for certain affordable housing nonprofit entity owners; providing priority consideration for use of rental income approach to assessment for certain affordable housing; requiring an affirmative demonstration to the property appraiser that no benefit will inure to the benefit of any for profit person or entity for a nonexempt purpose.

Section 10 – Amends s. 212.08(5), F.S., increasing the amount of available tax credits, providing separate annual limitations for sales tax credits, eliminating the reservation of available tax credits, including homeownership projects for extremely-low-income persons as defined in s. 420.0004(8), F.S.

Section 11 – Amends ss. 220.183(1) (c) and 220.183 (2) (b), F.S., increasing the amount of available tax credits, providing separate annual limitations for corporate tax credits, and eliminating the reservation of available tax credits including homeownership projects for extremely-low-income persons as defined in s. 420.0004(8), F.S .

Section 12 – Amends s. 253.034 (6) (f), F.S., relating to the uses of state-owned lands as surplus lands for affordable housing.

Section 13 – Amends s. 253.0341, F.S., authorizing local governments to request, under certain conditions, that state lands be specifically declared surplus lands for affordable housing purposes.

Section 14 – Amends s. 295.16, F.S., relating to license or permit fee exemptions for disabled veterans; changing language from "mobile home" to "dwelling."

Section 15 – Amends s. 380.06 (19), F.S., relating to development of regional impact substantial deviations and dwelling units used for "workforce housing;" providing a definition of "workforce housing."

Section 16 – Amends s. 380.0651 (3) (k), F.S., relating to development of regional impact statewide guidelines and standard, increasing the applicable guidelines for residential development, providing workforce housing; providing a definition of "workforce housing."

Section 17 – Amends s. 420.0004, F.S., providing a definition of "extremely low-income person" and authorizing the Florida Housing Finance Corporation to adjust low income guidelines.

Section 18 – Repeals ss. 420.37 and 420.530, F.S., relating to additional powers of the Florida Housing Finance Corporation and to the State Farmworker Housing Pilot Loan Program, respectively.

Section 19 – Amends s. 420.503 (18), F.S., amending the definition of "farmworker."

Section 20 – Amends s. 420.5061, F.S., conforming a cross-reference.

Section 21 – Amends s. 420.507 (22) (23) (40), F.S.; relating to: interest rates; the availability of subordinated loans to nonprofit sponsors or the availability for financing of housing to eligible borrowers; the adoption of rules for the intervention, negotiation or terms or other actions to support program goals or avoid default of program loan.

Section 22 – Amends ss. 420.5087 (1) (3) (5) (6), F.S., relating to state apartment incentive loans; changing county population category parameters used for the allocation of funds; providing that where the Corporation's lien is subordinate to another mortgagee, then the term of the loan may be made coterminous with longest term of the superior lien; and authorizing the Corporation to waive certain requirements for projects which reserve units for very-low-income families.

Section 23 – Amends s. 420.5088 (1) – (4), F.S., relating to Florida Homeownership Assistance Program.

Section 24 – Creates s. 420.5095, F.S., creating the Community Workforce Housing Innovation Program.

Section 25 – Amends s. 420.9071(25), F.S., conforming a cross-reference.

Section 26 – Amends s. 420.9072(2), F.S., correcting a cross-reference.

Section 27 – Amends ss. 420.9075, F.S., relating to the distribution of State Housing Initiatives Partnership funds in local housing assistance plans; creating content requirements for the local housing assistance plans; adding extremely-low-income persons and rehabilitation and construction of home ownership units to the eligibility parameters.

Section 28 – Amends s. 420.9076 (6), F.S., changing the maximum amount that the Florida Housing Finance Corporation may seek annually from the Local Government Housing Trust Fund for the purpose of compliance monitoring.

Section 29 – Amends 420.9079 (2), F.S., relating to the Local Government Housing Trust Fund; revising the amount of money a corporation may request in order to implement the provisions of s. 420.9075 (8), F.S.

Section 30 – Amends s. 624.5105 (1) (c) and (2) (e), F.S., increasing availability of community contribution tax credits, providing separate annual limitations for insurance premium tax credits, and eliminating the reservation of available tax credits including homeownership projects for extremely-low-income persons as defined in s. 420.0004(8), F.S .

Section 31 – Amends s. 1001.42 (9) (b), F.S., authorizing school boards to make certain school board lands, acquired prior to January 1, 2006, available for the purpose of providing housing assistance to teachers and other instructional personnel.

Section 32– Amends s. 1001.43 authorizing district school boards to provide affordable housing teachers and other instructional personnel.

Section 33 – Creating provisions for affordable housing land donation density incentives.

Section 34 – Providing DCA must establish the Home Retrofit Hardening Program; providing an appropriation.

Section 35 – Appropriating $2 million in fixed capital outlay from the State Housing Trust Fund and directing the DCA to establish the Disaster Recovery Assistance Program as a grant program utilizing that appropriation to fund home repairs and rehabilitation in communities severely impacted by the 2004 and 2005 hurricanes.

Section 36 – Providing appropriations for: the Rental Recovery Loan Program; the Farmworker Housing Recovery Program; the Special Housing Assistance and Development Program; the Hurricane Housing Recovery Program, and for technical and training assistance; providing authority to the Corporation to provide funds for affordable housing recovery in those areas which sustained housing damage resulting from the 2004 and 2005 hurricanes; providing for emergency rulemaking.

Section 37 – Providing an appropriation from the Small Cities Community Block Grant Trust Fund to be used in the state consistent with the Federal Register 71 FR 7666, February 13, 2006, and the HUD Action Plan for Disaster Recovery related to impacts of Hurricanes Wilma and Katrina.

Section 38 – Providing an appropriation to the Corporation from the Local Government Housing Trust Fund to implement the CWHIP.

Section 39 – Providing an appropriation from the Local Government Housing Trust Fund to assist in the production of housing units for extremely-low-income persons.

Section 40 – Providing an effective date of July 1, 2006, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Community Contribution Tax Credits: The Revenue Estimating Conference has determined that increasing the amount of community contribution tax credits annually from $12 million to $13 million will result in a loss of $.9 million in state revenues during fiscal year 2006-2007 and fiscal year 2007-2006.

	FY 2006-07	FY 2007-2008
General Revenue		
Corporate	(.1)	(.1)
Sales	(.8)	(.8)
State Trust	(Indeterminate)	(Indeterminate)
Total State Impact	(.9)	(.9)

2. Expenditures:

The bill appropriates:

- $50 million to the DCA from the U.S. Contributions Trust Fund for the Home Retrofit Hardening Program;
- $2 million in fixed capital outlay from the State Housing Trust Fund for the Disaster Recovery Assistance Program;
- $15 million from the Local Government Housing Trust Fund to the Florida Housing Finance Corporation to provide funds to eligible entities for affordable housing recovery from the 2004 and 2005 hurricanes;
- $25 million from the State Housing Trust Fund to the Corporation for the Farmworker Housing Recovery and Special Assistance and Development Programs;
- $400,000 from the State Housing Trust Fund for technical and training assistance;
- $176 million from the State Housing Trust Fund for the Rental Recovery Loan Program;
- $82,904,000 from the Florida Small Cities Community Development Block Grant Program Fund for affordable housing hurricane recovery;
- $50 million from the Local Government Housing Trust Fund to implement the Community Workforce Housing Innovation Program; and
- $33 million from the Local Government Housing Trust Fund for housing for extremely low income persons.

Community Contribution Tax Credits: It is anticipated that administration of the increase in tax credits by OTTED will be implemented within existing appropriations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Community Contribution Tax Credits: The Revenue Estimating Conference has determined that increasing the amount of community contribution tax credits annually from $12 million to $13 million will result in a loss of $ .1 million in local revenues during fiscal year 2006-2007 and fiscal year 2007-2006.

Disabled Veterans License and Permit Fee Exemption: The fiscal impact on local government revenues is expected to be insignificant. The Revenue Estimating Conference has not met on this issue.

2. Expenditures:

Indeterminate. The bill provides encouragement and opportunity for local government to support the affordable housing efforts advanced by this bill, but does not require any particular level of financial commitment.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Community Contribution Tax Credits: The bill increases the amount of tax credits available to persons for homeownership projects from $9.4 million to $10 million, and for non-housing projects from $2.6 million to $3 million. This may have a positive but indeterminate impact on the number of low-income homes that are built each year and the projects sponsored in enterprise zones and Front Porch Florida Communities as they are likely to receive more contributions.

Elderly Housing Community Loan Program: This bill may have an economic impact on a private sector apartment owner that qualifies under the EHCL Program by reducing the match amount required to qualify for a loan under the program, allowing them to take advantage of higher loan amounts.

The bill may have a beneficial impact on the private sector in the following manner:
- Provides incentives for the private sector development and provision of affordable housing.
- Provides housing opportunities for certain types of employees, thus supporting some private and public employers by authorizing means by which they may assist employees to secure affordable housing.

D. FISCAL COMMENTS:

Community Contribution Tax Credits: The table below shows the tax credits granted for housing projects and for other community development projects during the past 10 years. There were significant tax credits unused for the first two years after the cap was increased to $10 million. Subsequently, the entire allocation has been used.

COMMUNITY CONTRIBUTION TAX CREDIT PROGRAM
TAX CREDIT SUMMARY FY 1995/96 – FY 2005/06

FISCAL YEAR	APPROVED apps.	HOUSING TAX CREDITS	COMMUNITY DEVELOPMENT TAX CREDITS	TOTAL CREDITS APPROVED	CREDITS REMAINING	ANNUAL ALLOCATION
1995/96	75	$465,542	$1,472,255	$1,937,797	$62,203	$2,000,000
1996/97	69	$1,043,256	$1,018,947	$2,062,203	$-62,203	$2,000,000
1997/98	81	$1,348,500	$651,500	$2,000,000	$0	$2,000,000
1998/99	75	$2,720,441	$2,279,559	$5,000,000	$0	$5,000,000
1999/00	198	$3,764,283	$1,302,178	$5,066,461	$4,933,539	$10,000,000
2000/01	223	$5,320,890	$744,365	$6,065,255	$3,934,745	$10,000,000
2001/02	322	$9,484,489	$515,464	$9,999,953	$47	$10,000,000

2002/03	359	$8,914,456	$1,085,544	$10,000,000	$0	$10,000,000
2003/04	285	$8,622,769	$1,377,231	$10,000,000	$0	$10,000,000
2004/05	251	$8,051,618	$1,948,382	$10,000,000	$0	$10,000,000
2005/06	285	$9,558,883	$2,441,117	$12,000,000	$0	$12,000,000
10 YEAR TOTALS	**2,223**	**$59,295,127**	**$14,836,542**	**$74,131,669**	**$8,868,331**	**$83,000,000**

Source: Created from data provided by OTTED.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Community Contribution Tax Credits: This bill may reduce the authority of municipalities and counties to raise revenues: the estimated reduction in Local Option Sales tax is $.1 million in fiscal year 2006–2007 and fiscal year 2007-2008. However, this impact is considered to be insignificant, and the bill is therefore exempt from the provisions of s. 18(b) of Art. VII, State Constitution.

Disabled Veterans License and Permit Fee Exemption: The mandates provision appears to apply because this bill reduces revenue raising authority; however, an exemption applies. The number of applicable veterans likely to utilize the license and permit fee exemptions is expected to be minimal. Therefore, the fiscal impact is expected to be insignificant and the bill is exempt from the mandates provision.

Surplus Property Inventory: The mandates provision appears to apply because this bill requires counties and municipalities to conduct a surplus real property inventory and to determine what of that real property is appropriate for affordable housing purposes. Conducting such surveys and determining what real property is appropriate for affordable housing purposes will require the expenditure of funds. However, the bill may be exempt from the mandate requirements if the fiscal impact of the bill, on an aggregate basis for all cities and counties in the state, is less than $1.8 million over the long term. At this time, the fiscal impact of the bill is unknown.

If the bill is not exempt from the mandates requirements imposed by Art. VII, section 18 of the Florida Constitution, the Legislature must determine that the law fulfills an important state interest and the bill must be approved by two–thirds of the House and Senate membership.

2. Other:

Unauthorized Delegation of Legislative Authority: Section 24 of the bill creates s. 420.5095(10), F.S., requiring the Corporation to develop and implement a down payment assistance program without any standards or guidance regarding that program.

The legislative power of the state is vested in the Legislature (s. 1, Art. III, State Constitution). It is fundamental that the Legislature may not, except when authorized by constitution, delegate its legislative power, that is, the power to enact laws, or to declare what the law shall be, or to exercise an unrestricted discretion in applying the law. Under the doctrine of nondelegation of legislative power, fundamental and primary policy decisions shall be made by members of the legislature who are elected to perform those tasks, and administration of legislative programs must be pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.[6] The authorization to develop and implement a program with no further standards or guidance may be considered by a court to be an unauthorized delegation of legislative authority.

B. RULE-MAKING AUTHORITY:

The bill contains specific rulemaking authority as follows:

- Whereby the Corporation may intervene, negotiate terms, or undertake other actions to further program goals or avoid default of a program loan [s. 420.507(44), F.S.].
- To establish requirements for periodic reporting of data [s. 420.507(45), F.S.].
- To establish a funding process and selection criteria relating to the CWHIP [s. 420.5095(2), F.S.].
- To set the terms under which the CWHIP loan accrued interest may be forgiven [s. 420.9075(10)(b), F.S.].
- For Corporation subsidiaries as is necessary to conduct business and carry out the purposes of s. 420.507(40), F.S.
- Emergency rulemaking related to hurricane emergencies addressed in s. 37 of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

- The bill requires the Corporation to develop and implement a CWHIP down payment assistance program, but provides no direction or guidance to the Corporation regarding the program. Such a grant of authority may be an unauthorized delegation of legislative authority. [See: CONSTITUTIONAL ISSUES].

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the Growth Management Committee adopted a strike all amendment with two amendments. The strike all amendment substantially amended the originally filed bill to include the following:

- Authorizes the disposition of county property for affordable housing.
- Provides a density bonus in both the development of regional impact substantial deviation and statewide guidelines and standards provisions.
- Authorizes the disposition of municipal property for affordable housing.
- Authorizes independent special districts to provide housing and housing assistance for its employed personnel.
- Includes authority to provide housing and housing assistance for employed personnel to the general powers of independent special districts.
- Requires the use of a particular cap rates when a cap rate is used to assess the just valuation of affordable housing property.
- Defines classifications for the ownership of nonprofit entities.
- Creates “The Manny Diaz Affordable Housing Property Tax Relief Initiative.”
- Removes the cap on the distribution of certain revenues into the State Housing Trust Fund.
- Increases the availability of community contribution tax credits; provides separate annual limitations for insurance premium tax credits, and eliminates the reservation of available tax credits.
- Authorizes the use of state-owned surplus lands for affordable housing.
- Creates a disabled veterans exemption from certain license and permits fees
- Creates an incentive to provide workforce housing within developments of regional impact.
- Increases the applicable statewide development of regional impact guidelines for residential development that include workforce housing.
- Authorizes the Florida Housing Finance Corporation to adjust low income guidelines; provides definitions.
- Repeals s. 420.37, F.S.
- Expands the definition of “farmworker” in s. 420.503 (18), F.S., to comply with an applicable Federal definition.
- Amends the powers of the Florida Housing Finance Corporation.

[6] 10A Fla. Jur. 2d Constitutional Law s. 202.

- Increases the applicable population criteria for funding eligibility; lowers the sponsor match related to funding for certain repairs or improvements; and allows for coterminous loan terms under certain circumstances; all related to the State Apartment Incentive Loan Program.
- Amends provisions relating to the Florida Homeownership Assistance Program.
- Creates the Community Workforce Housing Innovation Program.
- Amends provisions of the State Housing Initiatives Partnership Program including creating rulemaking authority.
- Changes the maximum amount that the Florida Housing Finance Corporation may seek annually from the Local Government Housing Trust Fund for the purpose of compliance monitoring.
- Amends provisions relating to the community contribution tax credit.
- Authorizes school boards to provide affordable housing for teachers and other instructional personnel.
- Creates and appropriation of $20 million from the State Housing Trust Fund to the Florida Housing Finance Corporation to provide funding to teachers eligible for affordable housing.
- Authorizes the Florida Housing Finance Corporation to adopt rules to implement the provisions of the bill.

The Growth Management Committee took up and acted upon the following amendments:
- Amendment 1 – Withdrawn.
- Amendment 2 – Created s. 196.1980, F.S., "The Manny Diaz Affordable Housing Property Relief Initiative."
- Amendment 3 – Created paragraph (i) of subsection (11) of s. 420.5095, F.S., the Community Workforce Housing Innovation Program.

On March 29, 2006, the Local Government Council adopted a strike all amendment to HB 1363 CS. The strike all amendment changed the bill in the following respects:

- Changes the reference to the recipient trust fund for donations resulting from county and municipal sales of surplus lands as provided for in amended ss. 125.379 and 163.3187, F.S.
- Added "extremely-low-income persons" to the allowable classes of persons to whom a unit may be rented pursuant to newly created s. 125.379(4), F.S.
- Section 193.017, F.S., is substantially rewritten.
- Changes the placement of the creation of "The Manny Diaz Affordable Housing Property Tax Relief Act" to s. 193.081, F.S. , from s. 196.1980, F.S. Changes the name of the act to "The Manny Diaz Affordable Housing Property Tax *Assessment* Initiative." Changes the language to provide for a *rental* income approach; specifies that the rental income approach shall be determined pursuant to s. 193.077(7), F.S.; and provides that such approach relates to certain *affordable housing* properties. Adds s. 193.018(4), F.S., to the newly created section to provide that specified affordable housing shall be assessed with priority consideration given to the rental income approach, and applying certain assumptions.
- Amends s. 196.1978(3), F.S., to provide that property *owned by a non-profit entity* shall comply with referenced criteria for the determination of an affordable housing property exemption status.
- Deleted the phrase "subject to a recorded land use restriction agreement" at the end of the first sentence of newly added s. 380.06(19)(b)10., F.S. Also, changes the definition of "workforce housing" as it applies to the subparagraph relating to DRI substantial deviations by increasing the percentage to 150 percent from 120 percent.
- Changed the percentage to 150 percent from 120 percent relating to the newly created workforce housing bonus in the DRI threshold of s. 380.0651(3)(k), F.S.
- Hyphenated the term "extremely-low-income" in the new definition of s. 420.0004(8), F.S.
- Added the phrase "and for participation in a housing locator system" to the end of the newly created s. 420.507(45), F.S
- Replaced the term "extremely-low-income" for "families" in s. 420.5087(5), F.S.
- Removed the deletion of and substantially rewrote s. 420.5087(6)(c)6., F.S., relating to SAIL loans; also removed renumbering of subsequent subparagraphs.
- Replaces the term "extremely-low-income persons" for "units" in the new language of s. 420.5087(6)(c)7., F.S.
- Amends s. 420.5087(6)(k), F.S., to add an additional condition to the allowance of rent controls on certain projects.

- Adds “rented” to the list of events giving rise to the balance due of any HAP loan, unless otherwise approved by the Corporation in s. 420.5088, F.S.
- Substantially rewrites the newly created s. 420.5095, F.S., relating to the newly created CWHIP, to remove redundancies and to provide clarifications.
- Creates s. 420.9075(3), F.S., providing for local housing assistance plans to include a definition of essential service personnel to identify those personnel that will be eligible for certain essential service personnel housing assistance.
- Clarifies that the reservation of funds for home ownership for very low income persons is a goal and not a requirement in s. 420.9075(4)(a), F.S.; and deletes the newly created subsection (5) relating to the recruitment and retention of essential service personnel.
- Adds the amendment of s. 1013.01(6), F.S., to expand the definition of “educational facilities” to include affordable and workforce housing for teacher and school personnel, if approved by the board.
- Removes the additional rulemaking authority which appeared to duplicate the Corporation’s existing rulemaking authority.
- Creates s. 1013.15(5), F.S., authorizing school boards to rent or lease existing buildings, land, or space within buildings, originally constructed for purposes other than education, for conversion to use as affordable and workforce housing for school and instructional personnel.

On April 17, 2006, the Fiscal Council adopted a strike-all amendment to HB 1363 w/CS from the Local Government Council. The amendment:

- Defines “extremely-low-income” in s. 420.0004(8), F.S., and inserts the term throughout many of the programs and provisions in the bill to extend existing and created programs and authorities to reflect consideration of the housing needs for individuals in that income category.
- Substantially rewrites the newly created provisions authorizing independent special districts to provide varying degrees of housing assistance in ss. 5 and 6 of the bill.
- Adds a Federal Register citation to “the Manny Diaz Affordable Housing Property Tax Relief Initiative, s. 8 of the bill [See s. 193.018(1)(b), F.S.]; and a deed restriction requirement [See s. 193.018(1)(c), F.S.].
- Adds a qualifying requirement for an affordable housing property exemption [See s. 9 of the bill, s. 196.1978(3), F.S.].
- Moves language relating to local governments requests to surplus state lands for affordable housing purposes [See ss. 12 and 13 of the bill, ss. 253.034(6)(f)1. and 253.0341(3), F.S.
- Adds a qualification to the substantial deviation density bonus for the provision of workforce housing [See s. 15 of the bill, s. 380.06(19)(b)10., F.S.].
- Adds the same qualification to the statewide guidelines and standards for DRIs [See s. 16 of the bill, s. 380.0651, F.S.].
- Repeals s. 420.530, F.S., the State Farmworker Housing Pilot Loan Program [See s. 18 of the bill].
- Returns the maximum interest rate to nine percent authorized to be charged for SAIL loans [See. s. 21, s. 420.507, F.S.].
- Deletes emergency rulemaking authority for disaster recovery and reconstruction [See s. 21 of the bill, s. 420.507(46), F.S.].
- Adds language authorizing extended lien terms where the Corporation’s lien is subordinate to liens of longer duration [See s. 22 of the bill, s. 4205087(6)(g), F.S.].
- In the CWHIP: adds counties designated as rural areas of critical economic concern to the definition of “high-cost counties”; expands the definition of “public-private partnerships;” rewrites the definition of ”essential services personnel” with the same basic meaning; reformats several provisions into s. 420.5095(5), F.S.; changes the impact fee reduction incentive to remove the 50 percent reduction criteria; adds mixed land uses to the incentives; adds manufactured housing project under certain conditions as eligible CWHIP project; and extends the authorized loan interest rate to one to three percent [See bill s. 24, s. 420.5095, F.S.].
- Adds “other school district, community college and university employees” to the list of possible categories for the definition of essential service personnel in local housing assistance plans [s. 420.9075(3)(a), F.S.]; adds language encouraging eligible local governments to develop a local housing assistance plan strategy to address the needs of person deprived of affordable housing due to closure of a mobile home park or conversion of affordable rental units to condominiums [s. 420.9075, (c), F.S.]; adds rehabilitation and

construction of home ownership units to the funds reservation for certain income categories [See s. 27 of the bill, s. 420.9075(5)(a), F.S.].

- Provides authority to make certain school board lands available to certain developers or organizations for the purpose of providing affordable housing to teachers and other instruction personnel [See s. 31 of the bill, s. 1001.42(9)(b)9., F.S.].
- Adds affordable housing land donation density bonus incentives [See s. 33 of the bill].
- Adds the Home Retrofit Hardening Program [See s. 34 of the bill].
- Appropriates the following: $50 for the Home Retrofit Hardening Program; $2 million in fixed capital outlay for the Disaster Recovery Assistance Program; $15 million to provide funds to eligible entities for affordable housing recovery from the 2004 and 2005 hurricanes; $25 million for the Farmworker Housing Recovery and Special Assistance and Development Programs; $400,000 for technical and training assistance; $176 million for the Rental Recovery Loan Program; $82,904,000 for affordable housing hurricane recovery; $50 million to implement the Community Workforce Housing Innovation Program; $33 million for housing for extremely low income persons.