

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1375 Affordable Housing
SPONSOR(S): Economic Expansion & Infrastructure and Davis, M.
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Infrastructure</u>	<u>7 Y, 0 N</u>	<u>Peterson</u>	<u>Miller</u>
2) <u>Economic Expansion & Infrastructure Council</u>	<u>13 Y, 0 N, As CS</u>	<u>Peterson</u>	<u>Tinker</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The CS contains a number of provisions intended to further incentivize and encourage the provision of affordable housing. In particular, the CS:

- Revises elements of local government comprehensive plans relating to future land use and housing when considering proximity of affordable housing to employment centers.
- Requires certain counties to adopt a financially feasible plan for ensuring adequate workforce housing by July 1, 2008 and provides a penalty for local governments who do not comply.
- Authorizes local governments to identify in their comprehensive plans the types of housing development and conditions under which it will expedite consideration of amendments consistent with identified affordable housing incentive strategies.
- Creates the Florida Housing Preservation Bridge Loan Program, and clarifies and makes changes to the Community Workforce Housing Innovation Program and the Predevelopment Loan Program.
- Revises affordable housing advisory committees by increasing their membership and providing specified duties of the committee.
- Authorizes community colleges to use surplus property to provide sites for affordable housing.

The CS also offers tax relief for certain affordable housing properties. Specifically, the CS:

- Creates the Affordable Housing Property Tax Relief Initiative and provides criteria to be used in assessing just valuation of certain affordable housing properties serving extremely-low-, low-, moderate-, and very-low-income persons, and requiring a rental income approach for assessment of specified affordable housing properties.
- Authorizes certain agreements to be considered a land use regulation and a limitation on the highest and best use of the property.
- Provides assessment criteria for improvements used for permanently affordable housing subject to a 99-year ground lease.
- Revises an affordable housing property exemption to require that the owner be a corporation not for profit or a limited partnership the sole general partner of which is such a corporation, and expands the scope of the exemption to land that is owned by an exempt entity subject to a 99-year ground lease.

The CS contains clarifying provisions to address issues related to the transfer of assets/liabilities and rights and responsibilities from the former Florida Housing Finance Agency within DCA to the Florida Housing Finance Corporation.

Due to tax provisions in the CS which reduce the authority that counties and municipalities have to raise revenue the CS may be a mandate requiring a two-thirds vote of the membership of each house.

The CS will take effect July 1, 2007.

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

STORAGE NAME: h1375c.EEIC.doc
DATE: 4/17/2007

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government –

- The CS provides additional rulemaking authority to the Florida Housing Finance Corporation.
- The CS revises elements of local government comprehensive plans relating to future land use and housing; and authorizes local governments to grant an exception to concurrency requirements for transportation facilities and to exempt certain trips from the concurrency requirement when considering proximity of affordable housing to employment centers. In addition, the CS authorizes local governments to identify in their comprehensive plan the types of housing development and conditions under which it will expedite consideration of amendments to comprehensive plans consistent with affordable housing incentive strategies.
- The CS requires certain counties to adopt a financially feasible plan for ensuring adequate workforce housing by July 1, 2008, and provides a penalty for local governments who do not comply.
- The CS revises the legislative findings and purpose of the training and technical assistance program.
- The CS increases affordable housing advisory committee membership, and revises and provides specified duties of the advisory committee.
- The CS creates the Florida Housing Preservation Bridge Loan Program.

Ensure lower taxes –

- The CS creates the Affordable Housing Property Tax Relief Initiative and provides assessment criteria for improvements used for permanently affordable housing subject to a 99-year ground lease.

Promote personal responsibility and empower families –

- The CS increases the opportunities of local governments, governmental entities and private organizations to support and assist families in need and essential services personnel with regard to provision of affordable housing.

B. EFFECT OF PROPOSED CHANGES:

Background

The state has committed significant resources over the last decade to addressing the severe housing problems facing extremely-low, very-low and low-income residents of this state.

As referenced in the CS, the statutory definitions below (s. 420.0004, F.S.) apply:

(7) "Elderly" describes persons 62 years of age or older.

(8) "Extremely-low-income persons" means 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 within the state. The Florida Housing Finance Corporation may adjust this amount annually by rule to provide that in lower income counties, extremely low income may exceed 30 percent of area median income and that in higher income counties, extremely low income may be less than 30 percent of area median income.

(10) "Low-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

(11) "Moderate-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

(15) "Very-low-income persons" means one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

The Florida Housing Finance Corporation's (FHFC) programs are funded in part with revenues generated by the documentary stamp tax, which are most often coupled with federal funding. 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, Demonstration Loans and the Affordable Housing Catalyst Program. Also, the Corporation allocates documentary stamp funds to local governments through the State Housing Initiatives Partnership Program (SHIP). The majority of SHIP funds are directed by statute toward home ownership activities.
- Federal housing programs, especially those administered by Housing and Urban Development, 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.

EFFECT OF THE CS

The CS provides additional opportunities for partnerships in affordable housing by strengthening the role of local affordable housing advisory committees, expanding technical assistance to include assistance to the private sector, and making clarifications to the Community Workforce Housing Incentive Program (CWHIP). The CS also allows for transportation concurrency exemptions for housing close to employment centers, and provides better linkages between the local housing assistance plans and comprehensive plans. The CS addresses preservation of current affordable housing stock by revising tax provisions to focus on long term affordability rather than highest and best use.

Required and Optional Elements of Comprehensive Plan

Chapter 163, Florida Statutes, outlines the elements that are to be included in a local government's comprehensive plan and provides the framework for the regulation of land development, growth policy and county and municipal planning.

Proximity of affordable housing to employment centers

Future land use plan - Section 163.3177, F.S., states that a local government's future land use plan shall be based upon survey, studies, and data regarding the area and further specifies that this shall include the amount of land required to accommodate anticipated growth; the projected population; the character of undeveloped land; the availability of water supplies, public facilities, and services; the need for redevelopment; and the compatibility of uses on lands adjacent to or closely proximate to military installations. The CS provides that it shall also include the need for affordable housing adjacent to or closely proximate to employment centers. The CS further provides that if the local government elects to provide transportation concurrency exceptions for trips associated with affordable housing, the future land use plan element shall include criteria used to determine how the local government will determine what qualifies as affordable housing adjacent to or closely proximate to employment centers.

Housing element – The CS provides that in addition to the other standards, plans and principles to be followed, the housing element should also consist of standards, plans and principles to be followed in the provisions of housing adjacent to or closely proximate to employment centers that reduce trip lengths and is affordable to the employees and persons served by the employment center. The housing element is also to contain goals and policies to guide the local government in facilitating private and public provision of affordable housing to serve the residents and workforce. Consideration is to be given to the recommendations by the affordable housing advisory committee.

The CS requires certain counties to adopt a financially feasible plan for ensuring adequate workforce housing by July 1, 2008. These counties are those in which the gap between the buying power of a family of four and the median county home sale price exceeds \$150,000 and that are not designated as an area of critical state concern. The CS provides that local governments who do not comply will be ineligible to receive an state housing assistance grants until the requirement is met.

Concurrency exceptions – Section 163.3180, F.S., provides certain exceptions for concurrency when, under limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities and services be available concurrent with the impacts of such development and that the unintended result is the discouragement of urban infill development and redevelopment. The CS provides that an eligible exception to the concurrency requirement is the provision of affordable housing in close proximity to employment centers, when the proposed development is otherwise consistent with the adopted local government comprehensive plan. The CS further specifies that where residential units are placed in close proximity to places of employment to reduce the burden on transportation facilities and are developed in a manner to be affordable to that employment center's workforce, the local government should consider the systemwide benefits to the transportation system and may exempt trips associated with the residential units from concurrency if the location of the units will reduce long trip length burdens on the larger transportation system. Additionally, the CS exempts affordable workforce housing units which are in close proximity to employment centers from transportation concurrency regulations and will not reduce any transportation trip generation entitlements of the approved DRI order.

The CS further provides options for accessory dwelling units with regard to transportation concurrency and impact fee requirements.

At a minimum, local governments would need to update their comprehensive plan for the required provisions at the time of their evaluation and appraisal (EAR) amendment.

Amendments to adopted comprehensive plans

Section 136.3184, F.S., provides a process for adoption of a comprehensive plan or plan amendment, s. 163.3187, F.S., provides further regulation with regard to amendments of adopted comprehensive plans. The CS adds a provision in s. 163.3187, F.S., to the exceptions allowed to the two times per calendar year restriction for amendments to comprehensive plans. A local government may identify in its comprehensive plan those types of housing development and conditions under which it will expedite consideration of amendments consistent with the local housing incentive strategies and authorized by the local government. In order to do this, the local government must:

- notify the state land planning agency of its intent at least 30 days prior, which includes an evaluation related to site suitability and facilities and service availability; and
- include a statement of the intent to utilize the expedited adoption process in the public notice of the hearing.

Such amendments only require a single public hearing, which is to be an adoption hearing, and the state land planning agency is to issue its notice of intent within 30 days after determining that the amendment package is complete.

Tax Relief Provisions

Affordable Housing Property Tax Relief Initiative

Assessing just valuation of rental affordable housing properties – The CS creates a new section in law which provides that the actual rental income from rent-restricted units in affordable housing properties which serve extremely-low-, low-, moderate-, and very-low-income persons, as defined in s. 420.0004(8), (10), (11), and (15), F.S., is to be recognized by the property appraiser for assessment purposes. In addition, it provides that in assessing the following affordable housing properties the rental income approach outlined in s. 193.011(7), F.S., which states that the property appraiser is to take into consideration the income from said property, should be used for assessment:

- Property funded by the U.S. Department of Housing and Urban Development under s. 8 of the United States Housing Act of 1937 that is used to provide affordable housing servicing eligible persons as defined in s. 159.603 (7)¹, F.S., and elderly persons, extremely-low and very-low-income persons and that has undergone financial restructuring as provided in s. 501, Title V, Subtitle A of the Multifamily Assisted Housing Reform and Affordability Act of 1997;
- Multifamily, farmworker or elderly rental properties that are funded by the Florida Housing Finance Corporation (FHFC) under ss. 420.5087 (State Apartment Incentive Loan Program) and 420.5089 (HOME Investment Partnership Program), F.S., and the State Housing Initiatives Partnership Program (SHIP), s. 42 of the Internal Revenue Code, 26 U.S.C. s. 42, the HOME Investment Partnership Program under the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. ss. 12741 et seq.; or the Federal Home Loan Banks' Affordable Housing Program established pursuant to the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73; or
- Multifamily residential rental properties of 10 or more units that are deed restricted as affordable housing and certified by the local housing agency as having 100 percent of its units providing affordable housing to extremely-low-, low-, moderate-, and very-low-income persons.

¹ "Eligible persons" means one or more natural persons or a family, irrespective of race, creed, national origin, or sex, determined by the housing finance authority to be of low, moderate, or middle income. Such determination does not preclude any person or family earning up to 150 percent of the state or county median family income from participating in programs. Persons 65 years of age or older shall be defined as eligible persons regardless of their incomes. In determining the income standards of eligible persons for its various programs, the housing finance authority may consider the following factors: (a) Requirements mandated by federal law. (b) Variations in circumstances in different areas of the state. (c) Whether the determination is for rental housing or homeownership purposes. (d) The need for family-size adjustments to accomplish the purposes set forth in this act.

The CS further provides that properties used for affordable housing which have received a low-income housing tax credit for the FHFC are to be assessed with the s. 193.011(7), F.S., rental income approach which takes into consideration the income from properties when arriving at just valuation.

The following assumptions apply:

- Tax credits granted and financing generated by the tax credits may not be considered as property income;
- Actual rental income from rent-restricted units is to be recognized by the property appraiser as the real rents when assessing just value; and
- Costs paid for by tax credits and by additional financing proceeds received under chapter 420, F.S., may not be included in the property valuation.

When an extended low-income housing agreement is filed in the public records of the county in which the property is located, the agreement and any recorded amendment or supplement are to be considered a land use regulation and a limitation on the highest and best use of the property during the term of the agreement, amendment, or supplement.

Community land trusts

The CS creates a new section of law in order to provide guidance for assessing improvement used for permanently affordable housing subject to a 99-year ground lease. The improvements are to be assessed under s. 193.011, F.S., (factors to consider in deriving just valuation), as follows:

- Limits the amount a willing purchaser would pay a willing seller to the restricted resale price permitted under the 99-year ground lease.
- If the 99-year ground lease agreement or memorandum of such agreement contains a resale restriction for the purpose of providing affordable housing is filed in the official records, the lease agreement and any amendment or supplement, are to be considered a land use regulation and a limitation on the highest and best use of the property during the term of the lease or lease renewal.

Affordable housing property exemption

Section 196.1978, F.S., provides criteria used for affordable housing property exemptions. Specifically that property used to provide affordable housing serving specified eligible persons and those meeting specified income limits and is owned entirely by a nonprofit entity that meets certain qualifications and those portions of the affordable housing property which provide housing to individuals with specified incomes are to be exempt from ad valorem taxation. The CS further specifies that this must be a not for profit corporation or a limited partnership the sole general partner of which is a corporation not for profit. This exemption also includes land that is owned by an exempt entity subject to a 99-year ground lease for the purpose of providing permanently affordable housing.

Florida Housing Finance Corporation

The following CS provisions address issues related to the transfer of assets/liabilities and rights and responsibilities from the former Florida Housing Finance Agency within the Department of Community Affairs (DCA) to the FHFC, which became effective on January 1, 1998. The effect is to remove provisions which are obsolete due to completion of the transfer and to reflect the separate identity of the FHFC established over the eight years since its creation.

Clarifying language

The CS amends s. 420.504, F.S., to move a cross reference from s. 420.5061, F.S., which provides that the Florida Housing Finance Corporation is a state agency for purposes of the state allocation pool.

It also provides for publication of notices on the Internet, in addition to mail and facsimile, by the FHFC; and clarifies that FHFC is not a ch. 617 not for profit corporation.

The CS amends s. 420.506, F.S., to remove an obsolete never-used provision regarding leasing of employees from DCA. This was originally provided as an option to employees leaving DCA for the FHFC, but none elected to be leased.

The CS deletes obsolete provisions regarding the transfer of rights and liabilities from Florida Housing Finance Agency to the FHFC, including reference pertaining to a transfer of General Revenue, which was a one-time service charge levied for a service which ceased to be provided upon completion of the transfer.

The CS provides that a designee may represent the secretary of Community Affairs on the board of directors. In addition, the CS provides that, with regard to the FHFC's preparation and submittal of a budget request, the request does not have to be submitted to the secretary of the Department of Community Affairs, but to the Executive Office of the Governor, President of the Senate and the Speaker of the House of Representatives.

Holly Ridge v. Pritchett

The CS amends s. 420.507, F.S., to create a new subsection which codifies the decision in Holly Ridge v. Pritchett, 936 So.2d 694 (Fla. 5th DCA 2006), "Statutory requirement that county not consider tax credits to owners of apartment houses under the Low Income Housing Tax Credit (LIHTC) program as income for purposes of assessment of property taxes did not contravene constitutional requirement for "just valuation" of property for tax purposes, given that property was subject to restrictions that constitute land use regulations, and legislature deemed the tax credits as intangible personal property that was exempt from local taxation."

Training and Technical Assistance

The CS expands on the current legislative findings in s. 420.606, F.S., with regard to the housing needs of essential services personnel and encourages the private sector to provide affordable rental and home ownership housing for essential services personnel affected by the high cost of housing. The CS provides that technical assistance should address development costs through promoting local public-private partnerships that leverage government and private resources.

It also adds that training and technical assistance should also be provided to community-based organizations and staff of state and regional agencies and local governments for workforce housing in those areas where housing costs have severely limited housing affordability.

Affordable housing advisory committees

Currently, s. 420.9076, F.S., authorizes affordable housing advisory committees and outlines the membership and duties of such a committee. The CS amends this section to:

- Increase the membership of the SHIP affordable housing advisory committee to eleven (from nine), adding representatives of employers and essential services personnel;
- Allow smaller local governments to appoint an affordable housing advisory committee with fewer than eleven if they are unable to find representatives that meet the stated criteria;
- Require biennial report that includes recommendations of affordable housing incentives and evaluation of implementation of previously recommended strategies (providing an exemption to the biennial review requirement to smaller local governments);
- Add flexibility in densities and lot configurations and support of development near transportation hubs, major employment centers and mixed-use developments to the list of affordable housing incentives;

- Provide that approval by the advisory committee of its local housing incentive strategies recommendations and its review of the implementation of previously recommended strategies must be made by affirmative vote of a majority of the membership of the committee taken at a public hearing;
- Provide that the advisory committee may perform other responsibilities at the request of the local government, including the provision of mentoring services to identify incentives, assist with applications for funding requests, develop partnerships between various parties, and may create best practices for development of affordable housing.

Florida Housing Finance Corporation Programs

Predevelopment Loan Program

The CS increases the maximum loan amount authorized under the Predevelopment Loan Program from \$500,000 to \$750,000.

Florida Housing Preservation Bridge Loan Program

The CS authorizes FHFC to fund preservation bridge loan entities and creates the Florida Housing Preservation Bridge Loan Program in order to establish a revolving bridge loan program to preserve mobile home parks and affordable multifamily rental housing for low-income persons and families. It establishes legislative findings declaring that preserving affordable multifamily rental and mobile home park housing for low income families is essential to Florida's economy and the well being of all its citizens, that currently Florida lacks sufficient resources to preserve these properties, and therefore, finds a need to use state funds in order to leverage public, private, and philanthropic capital to preserve such housing. In addition, the CS provides eligibility criteria to receive funds under the program, including:

- Be certified by the U.S. Department of the Treasury as a community development financial institution;
- Be qualified as a 501(c)3 organization under the Internal Revenue Code;
- Possess a demonstrated record and ability to effectively deploy financing for community development purposes;
- Demonstrate knowledge and experience in lending to acquire, develop, and rehabilitate affordable housing;
- Demonstrate knowledge and experience in raising matching capital from private, public and philanthropic sources;
- Have statewide lending operations;
- Demonstrate experience and capacity to provide directly or through contracts with other entities, technical assistance to developers;
- Document established and proven underwriting policies, risk management ratings, portfolio management and servicing systems;
- Have an independent financial audit for prior years; and
- Meet requirements established by rule.

The CS provides that multifamily rental properties which are affordable to low-income persons and families without rental restrictions, but which will institute rental restrictions as a condition of the funding, may be funded after expiring use properties and mobile home park projects are funded.

The FHFC is authorized to establish a funding process and selection criteria by rule or is given the option to issue a request for proposals. The CS further provides that prior to providing any assistance, the FHFC and the participant are to execute an agreement requiring the participant to comply with all other terms and conditions of assistance, and provides guidelines in the event of fraud,

mismanagement, or noncompliance. In addition, it requires submittal of financial and activity reports and data to ensure compliance and evaluate the participant's performance.

The FHFC is given rulemaking authority to implement these provisions and is authorized to use a maximum of two percent of program funds for administration and monitoring.

Community Workforce Housing Innovation Program

Chapter 2006-69, Laws of Florida, created the Community Workforce Housing Innovation Pilot Program (CWHIP) in order to provide low interest and forgivable loans and incentives for affordable rental and homeownership community workforce housing for essential services personnel affected by the high cost of housing, using regulatory incentives and state and local funds to promote local public-private partnerships and leverage government and private resources.

The following modifications are made to the Program:

- Clarifies that funding is for new construction or rehabilitation,
- Provides for establishment of a review committee by rule. composed of Florida Housing Finance Corporation staff (may include three private citizens representing specified areas), to review applications for funding;
- Provides for a scoring system to be established by rule for evaluation and competitive ranking of applications, including but not limited to, the following criteria:
 - Private and public sector entities' involvement as partners in the project;
 - Sponsor's agreement to reserve more than: 80 percent of the units for persons or families with incomes that do not exceed 140 percent of the area median income (AMI) adjusted for household size (150 percent AMI in areas of critical state concern and in areas that were designated as areas of critical state concern for at least 20 consecutive years prior to removal of designation), and 50 percent of the units for essential services personnel;
 - Projects requiring the least amount of a community workforce housing loan compared to overall project costs;
 - Contributions to the project;
 - Local government comprehensive planning, zoning, permitting, and other regulatory and financial incentives that promote workforce housing;
 - Proximity to employment centers and transportation facilities;
 - Project feasibility;
 - Economic viability of the project;
 - Commitment of first mortgage financing;
 - Sponsor's prior affordable housing development and management experience;
 - Sponsor's ability to proceed with construction.
- Provides that the FHFC may reject any and all applications, and that the FHFC may approve and reject applications for the purpose of achieving geographic and demographic targeting;
- Establishes the process for selection by the board of directors;
The provisions pertaining to the review committee, process and statutory scoring criteria are adapted from the existing SAIL program.
- Authorizes local governments to use SHIP funds for CWHIP projects for residents at or below 140 percent AMI, (150% in areas of critical state concern designated under s. 380.05, for which the legislature has declared its intent to provide affordable housing, and in areas that were designated as such for at least 20 consecutive years prior to removal of the designation);
- Specifies that funding is to be used for innovative projects in high-cost and high-growth targeted areas, and requires a demonstrated need for workforce housing for essential services personnel;
- Requires that FHFC shall fund at least one eligible project in as many counties and regions of the state as is practicable, consistent with program goals;

- Establishes priority consideration for funding where the local jurisdiction has adopted or is committed to adopting or providing incentives and strategies;
- Adds priority consideration for funding for CWHIP projects that utilize innovative design and techniques in order to reduce the future costs to the homeowner related to maintenance, utilities, or insurance;
- Provides an exemption from the twice each year limitation on comprehensive plan amendments for CWHIP projects and requires that development orders for CWHIP projects be expedited;
- Increases authorized sales price in CWHIP projects from 80% to 90% of median sales price for the type of unit in the county;
- Clarifies that a written instrument with the signatures of all parties is necessary to establish that the applicant is a public-private partnership, and to establish required contributions;
- Reduces the minimum threshold for contributions to ten percent or \$2 million, whichever is less;
- Deletes requirements for the applicant to demonstrate affordable housing development and management experience and to provide any supporting research or facts for the demand and need for rental or home ownership workforce housing in the proposed market;
- Authorizes local governments to offer incentives and assistance to promote the financial viability, successful development and ongoing maintenance of approved CWHIP housing projects and offers a list of options; and
- Clarifies that the administration monitoring fraction applies to this program appropriation.

Community Colleges

The CS amends s. 1001.64, Florida Statutes, to authorize community colleges to use portions of certain property sites purchased within the guidelines of the State Requirements for Educational Facilities, land deemed not usable for educational purposes because of location or other factors, or land declared surplus by the board of trustees in order to provide sites for affordable housing for community college faculty or other college personnel independently or in conjunction with local governments and planning authorities. Each board may enter into lease-purchase arrangements with private or not-for-profit entities or corporations to accomplish this objective.

Provides effective date of July 1, 2007.

C. SECTION DIRECTORY:

- Section 1: Amends s. 163.3177(6), F.S., to revise elements of local government comprehensive plans relating to future land use and housing, when considering proximity of affordable housing to employment centers and requires consideration of affordable housing advisory committee recommendations; requires certain counties to adopt a financially feasible plan for ensuring adequate workforce housing and provides a penalty for noncompliance.
- Section 2: Amends s. 163.31771(5), F.S., providing options for accessory dwelling units with regard to transportation concurrency and impact fee requirements.
- Section 3: Amends s. 163.3180(5), F.S., to authorize local governments to grant an exception to concurrency requirements for transportation facilities and to exempt certain trips from the concurrency requirement when considering proximity of affordable housing to employment centers.
- Section 4: Creates s. 163.3184(19), F.S., to authorize any local government to identify in its comprehensive plan the types of housing development and conditions under which it will expedite consideration of amendments to comprehensive plans consistent with affordable housing incentive strategies identified in s. 420.9076, F.S.; provides amendment notice requirements; and requires a public hearing.

- Section 5: Amends s. 163.3187, F.S., to authorize certain local government comprehensive plan amendments to be adopted more than twice a year.
- Section 6: Creates s. 193.018, F.S., Affordable Housing Property Tax Relief Initiative, which provides criteria to be used in assessing just valuation of certain affordable housing properties serving extremely-low-, low-, moderate-, and very-low-income persons, specifically requiring the property appraiser to consider the actual rental income from rent-restricted units, and requiring a rental income approach pursuant to s. 193.011(7), F.S., for assessment of specified affordable housing properties. It also authorizes certain agreements to be considered a land use regulation and a limitation on the highest and best use of the property.
- Section 7: Creates s. 193.0185, F.S., to provide assessment criteria for improvements used for permanently affordable housing subject to a 99-year ground lease, and that certain agreements are to be considered a land use regulation and a limitation on the highest and best use of the property.
- Section 8: Amends s. 196.1978, F.S., to revise an affordable housing property exemption to require that the owner be a corporation not for profit or a limited partnership, the sole general partner of which is such a not for profit corporation; and expands the scope of the exemption to land that is owned by an exempt entity subject to a 99-year ground lease for the purpose of providing affordable housing.
- Section 9: Amends s. 380.06, F.S., to provide exemptions from transportation concurrency regulations for certain affordable workforce housing units, and providing that certain additional trips do not reduce development of regional impact development order entitlements.
- Section 10: Amends s. 420.504, F.S., to move a cross reference from s. 420.5061, F.S., which provides that the Florida Housing Finance Corporation is a state agency for purposes of the state allocation pool; and allows publication of competitive proposal and procurement notices on the internet, and clarifies the Florida Housing Finance Corporation is not governed by certain provisions relating to not for profit corporations. It also provides that a designee may represent the Secretary of the Department of Community Affairs on the board of directors.
- Section 11: Amends s. 420.506, F.S., to delete a provision relating to lease of certain state employees.
- Section 12: Amends s. 420.5061, F.S., to delete provisions requiring all assets and liabilities and rights and obligations of the Florida Housing Finance Agency to be transferred to the Florida Housing Finance Corporation; provide that the Florida Housing Finance Corporation is the legal successor to the agency; removes a provision requiring the Corporation to make transfers to certain trust funds; and removes a provision requiring all state property in use by the agency to be transferred to and become the property of the Florida Housing Finance Corporation.
- Section 13: Amend s. 420.507, F.S., to remove a requirement that the corporation prepare and submit a budget request to the secretary of the DCA; provides the Florida Housing Finance Corporation the power to require that an agreement be recorded in the official records of the county where the property is located, and that such an agreement is a state land use regulation that limits the highest and best use of the property within the meaning of s. 193.011(2).

- Section 14: Amends s. 420.5095, F.S., relating to the Community Workforce Housing Innovation Pilot Program. It clarifies that funding is for new construction or rehabilitation; requires the Florida Housing Finance Corporation to establish a review committee for the program; provides for membership; requires the Florida Housing Finance Corporation to establish a scoring system for evaluation and competitive ranking of applications; provides powers and duties of the committee; requires the Florida Housing Finance Corporation board to make the final ranking and program participant decision; revises which projects may receive priority consideration for funding; requires the processing of certain approvals of development orders or development permits to be expedited; provides applicant requirements; authorizes certain incentives to be offered by local governments for program participants; and removes a requirement that the Florida Housing Finance Corporation review the success of the pilot program.
- Section 15: Creates s. 420.5094, F.S., to create the Florida Housing Preservation Bridge Loan Program. It establishes legislative findings and definitions, and provides eligibility criteria to receive funds under the program. The corporation is given rulemaking authority to establish a funding process and selection criteria or is given the option to issue a request for proposals. Provides that prior to providing any assistance, the corporation and the participant are to execute an agreement, and provides guidelines in the event of fraud, mismanagement, or noncompliance. In addition, it requires submittal of financial and activity reports and data to ensure compliance and evaluate the participant's performance. Authorizes use of funds for administration and monitoring.
- Section 16: Amends s. 420.526, F.S., to increase the maximum loan amount authorized under the Predevelopment Loan Program.
- Section 17: Amends s. 420.606, F.S., to revise the legislative findings and purpose of the training and technical assistance program.
- Section 18: Amends s. 420.9076, F.S., to increase affordable housing advisory committee membership, provide membership criteria, authorize the use of fewer members under certain circumstances; and revise and provide duties of the advisory committee.
- Section 19: Creates s. 1001.64(47), F.S., to provide for certain properties owned by community colleges to be used for affordable housing for community college faculty or other college personnel.
- Section 20: Provides that the CS will take effect July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
No appropriations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local revenues may be affected by the provisions in the CS that provide for assessing just valuation of rental affordable housing properties, assessing improvements used for permanently affordable housing subject to a 99-year ground lease, and exemptions for certain affordable housing properties meeting specified income limits and owned entirely by a nonprofit entity that meets certain qualifications and land that is owned by an exempt entity subject to a 99-year ground lease for the purpose of providing permanently affordable housing.

The Revenue Estimating Conference has adopted an indeterminate negative estimate with regard to a couple of these provisions' impacts on local revenues. In particular, these provisions relate to utilizing the rental income approach for assessing just valuation of rental affordable housing properties and the community land trust valuation provision. In addition, the conference adopted 80 percent of the low estimate (-\$8.3 million) with regard to the affordable housing property exemption requiring that the owner be a corporation not for profit or a limited partnership the sole general partner of which is such a not for profit corporation.

2. Expenditures:

The CS increases the membership of the affordable housing advisory committees and authorizes additional duties and responsibilities of the committee.

The CS authorizes a local government to use SHIP funds for CWHIP projects for residents at or below 140 percent AMI.

The CS authorizes local governments to offer incentives and assistance to promote the financial viability, successful development and ongoing maintenance of approved CWHIP housing projects.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The CS encourages public-private partnerships to provide affordable rental and home ownership housing for essential services personnel affected by the high cost of housing, and authorizes local governments to offer incentives and assistance to promote the financial viability, successful development and ongoing maintenance of approved CWHIP housing projects.

The CS has a positive impact on the private sector by the incentives offered to provide affordable housing proximate to employment centers.

The CS continues and clarifies the CWHIP program in order to provide low interest and forgivable loans and incentives for affordable rental and homeownership community workforce housing for essential services personnel affected by the high cost of housing, using regulatory incentives and state and local funds to promote local public-private partnerships and leverage government and private resources.

FISCAL COMMENTS:
None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The CS does not reduce the percentage of a state tax shared with counties or municipalities.

The REC adopted a negative fiscal impact estimate of -\$8.3 million with regard to exemptions for certain affordable housing properties meeting specified income limits and owned entirely by a nonprofit entity that meets certain qualifications and land that is owned by an exempt entity subject to a 99-year ground lease for the purpose of providing permanently affordable housing. In addition, the

CS may reduce the authority that counties and municipalities have to raise revenue due to the tax provisions related to assessing just valuation of rental affordable housing properties and assessing improvements used for permanently affordable housing subject to a 99-year ground lease. Thus, the CS may be a mandate requiring a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Florida Housing Finance Corporation - Provides for selection by rule and provides for establishment of a review committee composed of Florida Housing Finance Corporation staff review CWHIP applications for funding. FHFC is also provided with rulemaking authority related to the Florida Housing Preservation Bridge Loan Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

The Committee on Infrastructure, on March 19, 2007, considered HB 1375 and adopted a strike-all amendment.

The Economic Expansion and Infrastructure Council, on April 12, 2007, considered HB 1375 and adopted a strike-all amendment. The bill was reported favorably as a council substitute.

The major differences between the amendment and the original bill include:

- Requires certain counties to adopt a financially feasible plan for ensuring adequate workforce housing by July 1, 2008, and provides penalties for noncompliance;
- Creates the Florida Housing Preservation Bridge Loan Program;
- Allows some flexibility re impact fees and transportation concurrency for accessory dwelling units;
- Adds a provision which exempts affordable workforce housing units which are in close proximity to employment centers from transportation concurrency regulations and will not reduce any transportation trip generation entitlements of the approved DRI development order;
- Modifies language regarding Community Land Trust property tax provisions;
- Removes provisions regarding the Florida Housing Finance Corporation Inspector General;
- Provides language regarding the Florida Housing Finance Corporation's preparation and submittal of a budget request;
- Retains language designating CWHIP as a pilot program and authorizes requests for proposals as an option to establish a funding process and selection criteria;
- Authorizes SHIP funds for CWHIP projects for residents 140% of area median income (150% in areas of critical state concern designated under s. 380.05, for which the legislature has declared its intent to provide affordable housing, and in areas that were designated as such for at least 20 consecutive years prior to removal of the designation);
- Increases authorized sales price in CWHIP projects from 80% to 90% of median sales price for the type of unit in the county;
- Adds priority consideration for funding for CWHIP projects that utilize innovative design and techniques in order to reduce the future costs to the homeowner related to maintenance, utilities, or insurance
- Fixes a glitch from last year requiring local governments to use all affordable housing incentive strategies identified by the affordable housing advisory committee;

- Removes a provision regarding an exemption from taxes for certain documents issued in connection with the financing of certain housing;
- Increases the maximum loan amount authorized under the Predevelopment Loan Program from \$500,000 to \$750,000;
- Removes a provision authorizing public housing authorities to create a self-insurance fund and the related exemption from certain taxes and assessments;
- Authorizes community colleges to use portions of their surplus property to provide sites for affordable housing for community college faculty or other college personnel; and
- Makes technical changes by:
 - Deleting section 1, which was originally meant to be a conforming change, and
 - Providing some clean up language throughout the bill, particularly in the property tax provisions.