

homebuyer, in large part because the buyer is not paying for the land. The homeowner receives a 99-year ground lease interest in the land and pays a nominal monthly fee to the community land trust for the use of the land. After the initial acquisition, resale is limited to a formula contained in the ground lease that restricts the market price of the home to ensure continuous affordability.

According to the Revenue Estimating Conference, as of 2007 there are 17 community land trusts in Florida that are operational or in the incorporation stage, and 13 more under discussion. In Monroe County, the Middle Keys Community Land Trust allows improvements to appreciate by the lesser of 3 percent per year or the rate of annual growth in median income in the Keys.

Affordable and Workforce Housing Income Requirements — Income requirements for affordable housing and workforce housing are established in ss. 420.0004 and 420.5095, F.S., respectively, as follows:

- Extremely-low-income persons: a person or family whose total annual income does not exceed 30 percent of the median annual adjusted gross income for households within the state.
- Very-low-income persons: a person or family whose total annual income does not exceed 50 percent of the median annual adjusted gross income for households within the state.
- Low-income persons: a person or family whose total annual income does not exceed 80 percent of the median annual adjusted gross income for households within the state.
- Moderate-income persons: a person or family whose total annual income is less than 120 percent of the median annual gross income for households within the state.
- Workforce housing: housing affordable to a person or family whose total annual income does not exceed 140 percent of the area median income, adjusted for household size. In areas of critical state concern, the total annual income may not exceed 150 percent of the area median income.

Charitable Organizations — Under section 501(c)(3) of the Internal Revenue Code, an organization may only be tax-exempt if it is organized and operated for exempt purposes, including charitable and religious purposes. None of the organization's earnings may benefit any private shareholder or individual, and the organization may not attempt to influence legislation as a substantial part of its activities. Charitable purposes include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government.

Affordable Housing Property Exemptions — The Florida Constitution provides no exception to the just value standard for assessment of property in affordable housing programs. Under s. 193.017, F.S., in assessing property in the Low-Income Housing Tax Credit Program, neither the tax credits nor the financing generated by the tax credits may be considered income to the property, and the actual rental income from rent-restricted units may be recognized by the property appraiser. Under s. 196.1978, F.S., property that provides affordable housing for income-eligible individuals and families and is owned entirely by a charitable nonprofit entity under federal criteria, is considered property owned by an exempt entity for charitable purposes, making it eligible for an ad valorem tax exemption to the extent authorized in s. 196.196, F.S. In 2007, the Legislature enacted chapter 2007-198, Laws of Florida, authorizing a county or municipality to adopt an ordinance to allow for the deferral of property taxes and non-ad valorem assessments if the owners of the property are operating, rehabilitating, or renovating affordable

rental housing property. The use of the property as affordable housing must be maintained over the deferral period or the total amount of deferred assessments, taxes and interest becomes due and payable on November 1 of the year in which the use of the property was changed.

III. Effect of Proposed Changes:

The bill creates s. 193.018, F.S., to provide for the assessment of structural improvements, condominium parcels, and cooperative parcels on land that is owned by a community land trust (CLT) and used to provide affordable housing. The bill defines “community land trust” as a nonprofit entity that qualifies as a charitable entity under s. 501(c)(3) of the Internal Revenue Code and which has as one of its purposes the acquisition of land to be held in perpetuity for the primary purpose of providing affordable housing.

The bill codifies in statute the responsibility of a CLT to convey structural improvements, condominium parcels, or cooperative parcels located on specific parcels of land to persons or families who qualify for affordable housing under the income limits of s. 420.0004, F.S., or for workforce housing under the income limits of s. 420.5095, F.S. The improvements or parcels are each subject to a ground lease of at least 99 years, and the ground lease shall contain a formula limiting the amount for which the improvement or parcel may be resold. The CLT retains the first right to purchase at the time of resale.

The bill provides that in arriving at the just valuation of structural improvements or improved parcels conveyed by a CLT, or land owned by the CLT, the property appraiser must assess based on the resale restrictions or limited uses contained in the 99-year or longer ground lease. When recorded in the official public records of the county in which the property is located, the ground lease and amendments or supplements to the lease, or a memorandum documenting the restrictions contained in the ground lease, are deemed a land use regulation during the term of the lease.

The bill provides an effective date of July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill reduces the authority that municipalities and counties have to raise revenues in the aggregate, but the level of reduction is unclear. The Revenue Estimating Conference has determined that HB 267, which is identical to this bill, will have a negative indeterminate fiscal impact on local governments. If the fiscal impact of the bill rises above the level determined to be “insignificant,”¹ the bill must pass with two-thirds vote of the membership of each house of the Legislature, as required in s. 18, Art. VII, State Constitution.

¹ Defined as a fiscal impact of 10 cents or less per capita per year. Florida's estimated population on April 1, 2007, was 18.68 million people, so a fiscal impact of more than \$1.9 million in the aggregate is a significant fiscal impact.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Florida residents may see an increase in affordable housing properties and units available for sale or rental under the provisions of the bill. Developers and providers of affordable housing may see a reduction in ad valorem taxes from the provisions of the bill.

C. Government Sector Impact:

The Revenue Estimating Conference has determined that HB 267, which is identical to this bill, will have a negative indeterminate fiscal impact on local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Judiciary on April 21, 2009:

The committee substitute removes from the prior version of the bill:

- The amendments to s. 159.807, F.S., which limited the Florida Housing Finance Corporation's access to the state allocation pool for private activity bonds permitted to be issued in the state under the Internal Revenue Code to the amount of their initial allocation under s. 159.804, F.S., and which provided that after the initial allocation has been provided, the corporation may not receive more than 80 percent of the amount remaining in the state allocation pool on November 16th of each year;
- The amendments to section 196.196, F.S., that created a new subsection (5) to provide that property owned by an exempt organization qualified as charitable under

s. 501(c)(3) of the Internal Revenue Code is used for a charitable purpose if the organization has taken affirmative steps to prepare the property to provide affordable housing to persons or families meeting the income restrictions for extremely-low, very-low, low, and moderate income families under s. 420.0004, F.S.;

- The amendments to s. 196.1978, F.S., that extended the affordable housing property ad valorem tax exemption to property that is held for the purpose of providing affordable housing to persons and families meeting the income restrictions in ss. 159.603(7) and s. 420.0004, F.S.;
- The amendments to s. 212.055, F.S., that provided that an expenditure to acquire land to be used for a residential housing project in which at least 30 percent of the units are affordable to specified individuals and families is an authorized use of the local infrastructure surtax if the land is owned by a local government or a special district that has entered into an interlocal agreement with the local government to provide such housing;
- The amendments to s. 163.3202, F.S., that provided that certain land development regulations must maintain the existing density of specified properties if the properties are intended for residential use and are located in an unincorporated area with sufficient infrastructure in place to support the use;
- The amendments to s. 420.503, F.S., that provided that “moderate rehabilitation” means the repair or restoration of a dwelling unit when the value of such a repair or restoration is not more than 40 percent of the value of the dwelling unit but not less than \$10,000;
- The amendments to s. 420.5087, F.S., that included projects that include green building principles, storm-resistant construction, or other elements to reduce long-term maintenance costs as projects eligible to apply for and receive consideration for funding from the SAIL program;
- The provisions creating section 420.628, F.S., that directed the Florida Housing Finance Corporation, the agencies receiving funding under the State Housing Initiatives Partnership Program, local housing finance agencies, and public housing authorities to coordinate with the Department of Children and Family Services and their agents and community-based care providers to develop and implement strategies and procedures to increase affordable housing opportunities for young adults leaving the child welfare system.
- The amendments to the definitions in s. 420.9071, F.S.;
- The amendments to s. 420.9072, F.S., that deleted a cross-reference to s. 420.9078, F.S.
- The amendments to s. 420.9073, F.S., relating to Local Housing Distributions;
- The amendments to s. 420.9075, F.S., relating to Local Housing Assistance Plans;
- The amendments to s. 420.9076, F.S., relating to the adoption of affordable housing incentive strategies;
- The amendment that repealed s. 420.9078, F.S., providing statutory requirements for the Florida Housing Finance Corporation’s distribution of funds, if any, which remain in the Local Government Housing Assistance Trust Fund, after all appropriations have been made;
- The amendments to s. 420.9079, F.S., that corrected cross-references; and

- The amendments to s. 1001.43, F.S., that expanded the purposes for which a district school board in an area of critical state concern may use specified properties and surplus lands to include affordable housing for essential services personnel, as defined by local affordable housing eligibility requirements.

CS by Community Affairs on March 17, 2009:

The committee substitute removes the following sections of the original bill:

- Section 1 relating to the use the tourist development tax for affordable housing.
- Section 7 repealing the transfer of service charges to the General Revenue Fund.
- Section 9 creating the Florida Public Housing Authority Preservation Grant Program.
- Section 11 relating to the Community Workforce Housing Innovative Pilot Program.
- Section 12 relating to the affordable housing land donation density bonus.

The committee substitute provides that counties and eligible cities may use SHIP dollars to provide one-time relocation grants to persons evicted from rental property when that property is in foreclosure, and upon other conditions and income restrictions. Certain land development regulations must maintain existing density on specified properties under certain circumstances.

B. Amendments:

None.