

HB 7111

2009

1 A bill to be entitled
2 An act relating to the Department of Community Affairs;
3 creating s. 14.2017, F.S.; creating the Office of
4 Emergency Management within the Executive Office of the
5 Governor; providing for appointment of a director;
6 amending s. 20.10, F.S.; creating the Division of Housing
7 and Community Development, which includes the Office of
8 Urban Opportunity, and the Division of State and Community
9 Planning within the Department of State; requiring the
10 Secretary of State to appoint directors; providing
11 appointment and termination requirements; providing for
12 the employment of personnel; specifying certain
13 responsibilities of the department; amending ss. 68.096
14 and 68.105, F.S.; revising references to the Department of
15 Community Affairs to conform to the transfer of the civil
16 legal assistance program within the Department of
17 Community Affairs to the Department of Legal Affairs;
18 amending ss. 420.504 and 420.506, F.S.; revising
19 references to the Department of Community Affairs to
20 conform to the transfer of the Florida Housing Finance
21 Corporation to the Department of State; providing for a
22 type two transfer of the Division of Housing and Community
23 Development and the Division of Community Planning within
24 the Department of Community Affairs to the Department of
25 State; providing for a type two transfer of the Division
26 of Emergency Management within the Department of Community
27 Affairs to the Executive Office of the Governor; providing
28 for a type two transfer of the civil legal assistance

HB 7111

2009

29 program within the Department of Community Affairs to the
30 Department of Legal Affairs; providing for a type two
31 transfer of the manufactured building program and the
32 Florida Building Commission, including the commission's
33 oversight of the Florida Americans With Disabilities
34 Accessibility Implementation Act and the Florida Building
35 Code, within the Department of Community Affairs to the
36 Department of Business and Professional Regulation;
37 requiring the Division of Statutory Revision of the Office
38 of Legislative Services, at the request of certain
39 legislative substantive committees, to provide assistance
40 in conforming Florida Statutes to changes made by the act;
41 directing the Secretary of State to evaluate the programs,
42 functions, and activities transferred to the Department of
43 State in accordance with the act and to submit certain
44 recommendations to the Governor and the Legislature by a
45 specified date; providing legislative intent relating to
46 changes made by the act; repealing s. 20.18, F.S.,
47 relating to the creation of the Department of Community
48 Affairs; repealing s. 163.3247, F.S., relating to the
49 Century Commission for a Sustainable Florida; repealing
50 ss. 720.403, 720.404, 720.405, 720.406, and 720.407, F.S.,
51 relating to covenant revitalization for residential
52 communities under part III of ch. 720, F.S.; providing
53 effective dates.

54
55 Be It Enacted by the Legislature of the State of Florida:
56

HB 7111

2009

57 Section 1. Section 14.2017, Florida Statutes, is created
 58 to read:

59 14.2017 Office of Emergency Management.--The Office of
 60 Emergency Management is created within the Executive Office of
 61 the Governor. The director of the Office of Emergency Management
 62 shall be appointed by and serve at the pleasure of the Governor.

63 Section 2. Section 20.10, Florida Statutes, is amended to
 64 read:

65 20.10 Department of State.--There is created a Department
 66 of State.

67 (1) The head of the Department of State is the Secretary
 68 of State. The Secretary of State shall be appointed by the
 69 Governor, subject to confirmation by the Senate, and shall serve
 70 at the pleasure of the Governor. The Secretary of State shall
 71 perform the functions conferred by the State Constitution upon
 72 the custodian of state records.

73 (2) The following divisions of the Department of State are
 74 established:

- 75 (a) Division of Elections.
- 76 (b) Division of Historical Resources.
- 77 (c) Division of Corporations.
- 78 (d) Division of Library and Information Services.
- 79 (e) Division of Cultural Affairs.
- 80 (f) Division of Administration.
- 81 (g) Division of Housing and Community Development, which
 82 shall include the Office of Urban Opportunity.
- 83 (h) Division of State and Community Planning.

84 (3) Unless otherwise provided by law, the Secretary of
 85 State shall appoint the directors or executive directors of any
 86 commission or council assigned to the department, who shall
 87 serve at the pleasure of the secretary as provided for division
 88 directors in s. 110.205. Any appointment or termination by the
 89 secretary shall be with the advice and consent of the commission
 90 or council, and the director or executive director may employ,
 91 subject to departmental rules and procedures, such personnel as
 92 may be authorized and necessary.

93 (4) The role of state government required by part I of
 94 chapter 421 and chapters 422 and 423 is the responsibility of
 95 the Department of State, and the department is the agency of
 96 state government responsible for the state's role in housing and
 97 urban development.

98 (5)~~(3)~~ The Department of State may adopt rules pursuant to
 99 ss. 120.536(1) and 120.54 to administer the provisions of law
 100 conferring duties upon the department.

101 Section 3. Subsection (1) of section 68.096, Florida
 102 Statutes, is amended to read:

103 68.096 Definitions.--For purposes of this act:

104 (1) "Department" means the Department of Legal ~~Community~~
 105 Affairs.

106 Section 4. Section 68.105, Florida Statutes, is amended to
 107 read:

108 68.105 Use of funds; reports.--All appropriations made for
 109 the purposes of this act shall only be used for legal education
 110 or assistance in family law, juvenile law, entitlement to
 111 federal benefits, protection from domestic violence, elder

HB 7111

2009

112 | abuse, child abuse, or immigration law. These funds shall not be
 113 | used in criminal or postconviction relief matters, for lobbying
 114 | activities, to sue the state, its agencies or political
 115 | subdivisions, or colleges or universities, for class action
 116 | lawsuits, to provide legal assistance with respect to
 117 | noncriminal infractions pursuant to chapter 316, chapter 318,
 118 | chapter 320, or chapter 322, to contest regulatory decisions of
 119 | any municipal, county, or state administrative or legislative
 120 | body, or to file or assist in the filing of private causes of
 121 | action under federal or state statutes relating to or arising
 122 | out of employment or terms or conditions of employment. The
 123 | contracting organization shall require pilot projects to provide
 124 | data on the number of clients served, the types of cases, the
 125 | reasons the cases were closed, and the state dollars saved and
 126 | federal dollars brought into the state because of the legal
 127 | services provided. The contracting organization shall provide to
 128 | the Department of Legal ~~Community~~ Affairs, within 60 days of the
 129 | completion of the contract, a report on the legal services
 130 | provided, the state dollars saved, and the federal dollars
 131 | brought into the state.

132 | Section 5. Subsections (1) and (3) of section 420.504,
 133 | Florida Statutes, are amended to read:

134 | 420.504 Public corporation; creation, membership, terms,
 135 | expenses.--

136 | (1) There is created within the Department of State
 137 | ~~Community Affairs~~ a public corporation and a public body
 138 | corporate and politic, to be known as the "Florida Housing
 139 | Finance Corporation." It is declared to be the intent of and

HB 7111

2009

140 constitutional construction by the Legislature that the Florida
141 Housing Finance Corporation constitutes an entrepreneurial
142 public corporation organized to provide and promote the public
143 welfare by administering the governmental function of financing
144 or refinancing housing and related facilities in Florida and
145 that the corporation is not a department of the executive branch
146 of state government within the scope and meaning of s. 6, Art.
147 IV of the State Constitution, but is functionally related to the
148 Department of State ~~Community Affairs~~ in which it is placed. The
149 executive function of state government to be performed by the
150 secretary of the department in the conduct of the business of
151 the Florida Housing Finance Corporation must be performed
152 pursuant to a contract to monitor and set performance standards
153 for the implementation of the business plan for the provision of
154 housing approved for the corporation as provided in s. 420.0006.
155 This contract shall include the performance standards for the
156 provision of affordable housing in Florida established in the
157 business plan described in s. 420.511.

158 (3) The corporation is a separate budget entity and is not
159 subject to control, supervision, or direction by the Department
160 of State ~~Community Affairs~~ in any manner, including, but not
161 limited to, personnel, purchasing, transactions involving real
162 or personal property, and budgetary matters. The corporation
163 shall consist of a board of directors composed of the Secretary
164 of State ~~Community Affairs~~ as an ex officio and voting member
165 and eight members appointed by the Governor subject to
166 confirmation by the Senate from the following:

HB 7111

2009

167 (a) One citizen actively engaged in the residential home
 168 building industry.

169 (b) One citizen actively engaged in the banking or
 170 mortgage banking industry.

171 (c) One citizen who is a representative of those areas of
 172 labor engaged in home building.

173 (d) One citizen with experience in housing development who
 174 is an advocate for low-income persons.

175 (e) One citizen actively engaged in the commercial
 176 building industry.

177 (f) One citizen who is a former local government elected
 178 official.

179 (g) Two citizens of the state who are not principally
 180 employed as members or representatives of any of the groups
 181 specified in paragraphs (a)-(f).

182 Section 6. Section 420.506, Florida Statutes, is amended
 183 to read:

184 420.506 Executive director; agents and employees.--The
 185 appointment and removal of an executive director shall be by the
 186 Secretary of State ~~Community Affairs~~, with the advice and
 187 consent of the corporation's board of directors. The executive
 188 director shall employ legal and technical experts and such other
 189 agents and employees, permanent and temporary, as the
 190 corporation may require, and shall communicate with and provide
 191 information to the Legislature with respect to the corporation's
 192 activities. The board is authorized, notwithstanding the
 193 provisions of s. 216.262, to develop and implement rules
 194 regarding the employment of employees of the corporation and

HB 7111

2009

195 service providers, including legal counsel. The board of
 196 directors of the corporation is entitled to establish travel
 197 procedures and guidelines for employees of the corporation. The
 198 executive director's office and the corporation's files and
 199 records must be located in Leon County.

200 Section 7. (1) Effective October 1, 2009, the Division of
 201 Housing and Community Development and the Division of Community
 202 Planning within the Department of Community Affairs are
 203 transferred by a type two transfer, as defined in s. 20.06(2),
 204 Florida Statutes, to the Department of State, and the Division
 205 of Community Planning is renamed the Division of State and
 206 Community Planning. The transfer includes:

207 (a) All statutory powers, duties, functions, records,
 208 personnel, and property of the Division of Housing and Community
 209 Development and the Division of Community Planning.

210 (b) All unexpended balances of appropriations,
 211 allocations, trust funds, and other funds used to fund the
 212 operations of the Division of Housing and Community Development
 213 and the Division of Community Planning.

214 (c) All existing legal authorities and actions of the
 215 Division of Housing and Community Development and the Division
 216 of Community Planning, including, but not limited to, all
 217 pending and completed action on orders and rules, all
 218 enforcement matters, and all delegations, interagency
 219 agreements, and contracts with federal, state, regional, and
 220 local governments and private entities.

221 (2) This section shall not affect the validity of any
 222 judicial or administrative action involving the Division of

HB 7111

2009

223 Housing and Community Development or the Division of Community
 224 Planning within the Department of Community Affairs pending on
 225 October 1, 2009, and the Department of State shall be
 226 substituted as a party in interest in any such action.

227 Section 8. (1) Effective October 1, 2009, the Division of
 228 Emergency Management within the Department of Community Affairs
 229 is transferred by a type two transfer, as defined in s.
 230 20.06(2), Florida Statutes, to the Executive Office of the
 231 Governor and is renamed the Office of Emergency Management. The
 232 transfer includes:

233 (a) All statutory powers, duties, functions, records,
 234 personnel, and property of the Division of Emergency Management.

235 (b) All unexpended balances of appropriations,
 236 allocations, trust funds, and other funds used to fund the
 237 operations of the Division of Emergency Management.

238 (c) All existing legal authorities and actions of the
 239 Division of Emergency Management, including, but not limited to,
 240 all pending and completed action on orders and rules, all
 241 enforcement matters, and all delegations, interagency
 242 agreements, and contracts with federal, state, regional, and
 243 local governments and private entities.

244 (2) This section shall not affect the validity of any
 245 judicial or administrative action involving the Division of
 246 Emergency Management within the Department of Community Affairs
 247 pending on October 1, 2009, and the Executive Office of the
 248 Governor shall be substituted as a party in interest in any such
 249 action.

HB 7111

2009

250 Section 9. Effective October 1, 2009, the civil legal
 251 assistance program created pursuant to the Florida Access to
 252 Civil Legal Assistance Act under sections 68.094-68.105, Florida
 253 Statutes, within the Department of Community Affairs is
 254 transferred by a type two transfer, as defined in s. 20.06(2),
 255 Florida Statutes, to the Department of Legal Affairs.

256 Section 10. (1) Effective October 1, 2009, the
 257 manufactured building program created pursuant to the Florida
 258 Manufactured Building Act of 1979 under part I of chapter 553,
 259 Florida Statutes, and the Florida Building Commission, including
 260 oversight of the programs created pursuant to the Florida
 261 Americans With Disabilities Accessibility Implementation Act
 262 under part II of chapter 553, Florida Statutes, and the Florida
 263 Building Codes Act under part IV of chapter 553, Florida
 264 Statutes, within the Department of Community Affairs are
 265 transferred by a type two transfer, as defined in s. 20.06(2),
 266 Florida Statutes, to the Department of Business and Professional
 267 Regulation. The transfer includes:

268 (a) All statutory powers, duties, functions, records,
 269 personnel, and property of the manufactured building program and
 270 the Florida Building Commission.

271 (b) All unexpended balances of appropriations,
 272 allocations, trust funds, and other funds used to fund the
 273 operations of the manufactured building program and the Florida
 274 Building Commission.

275 (c) All existing legal authorities and actions of the
 276 manufactured building program and the Florida Building
 277 Commission, including, but not limited to, all pending and

HB 7111

2009

278 completed action on orders and rules, all enforcement matters,
279 and all delegations, interagency agreements, and contracts with
280 federal, state, regional, and local governments and private
281 entities.

282 (2) This section shall not affect the validity of any
283 judicial or administrative action involving the manufactured
284 building program or the Florida Building Commission within the
285 Department of Community Affairs pending on October 1, 2009, and
286 the Department of Business and Professional Regulation shall be
287 substituted as a party in interest in any such action.

288 Section 11. The Legislature recognizes that there is a
289 need to conform the Florida Statutes to the policy decisions
290 reflected in this act and that there is a need to resolve
291 apparent conflicts between this act and any other legislation
292 enacted during 2009 relating to the Department of Community
293 Affairs, the Department of Business and Professional Regulation,
294 the Department of Legal Affairs, the Department of State, and
295 the Executive Office of the Governor. Therefore, in the interim
296 between this act becoming a law and the 2010 Regular Session of
297 the Legislature or an earlier special session addressing this
298 issue, the Division of Statutory Revision shall, upon request,
299 provide the relevant substantive committees of the Senate and
300 the House of Representatives with assistance to enable such
301 committees to prepare draft legislation to conform the Florida
302 Statutes and any legislation enacted during 2009 to the
303 provisions of this act.

304 Section 12. The Secretary of State shall evaluate the
305 programs, functions, and activities transferred to the

HB 7111

2009

306 Department of State by this act and recommend statutory changes
307 to best effectuate and incorporate the programs, functions, and
308 activities within the Department of State, including
309 recommendations for achieving efficiencies in management and
310 operation, improving service delivery to the public, and
311 ensuring compliance with federal and state laws. The secretary
312 shall submit his or her recommendations to the Governor, the
313 President of the Senate, and the Speaker of the House of
314 Representatives no later than January 1, 2010.

315 Section 13. Except as otherwise provided in this act, it
316 is the intent of the Legislature that the programs, functions,
317 and activities of the Department of Community Affairs continue
318 without significant change during the 2009-2010 fiscal year, and
319 no change in department rules shall be made until July 1, 2010,
320 except as may be required to reflect changes in or for
321 compliance with new federal or state laws. This limitation on
322 rule adoption shall not apply to rules regarding the Florida
323 Building Code adopted under the authority of chapter 553,
324 Florida Statutes.

325 Section 14. Sections 20.18, 163.3247, 720.403, 720.404,
326 720.405, 720.406, and 720.407, Florida Statutes, are repealed.

327 Section 15. Except as otherwise expressly provided in this
328 act, this act shall take effect July 1, 2009.