

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Committee

BILL: SB 2154 (SPB 7200)

INTRODUCER: Budget Committee

SUBJECT: Florida Housing Finance Corporation

DATE: April 1, 2011

REVISED: \_\_\_\_\_

|    | ANALYST   | STAFF DIRECTOR | REFERENCE | ACTION                    |
|----|-----------|----------------|-----------|---------------------------|
| 1. | Meyer, R. | Meyer, C.      |           | <b>SPB 7200 Favorable</b> |
| 2. | _____     | _____          | _____     | _____                     |
| 3. | _____     | _____          | _____     | _____                     |
| 4. | _____     | _____          | _____     | _____                     |
| 5. | _____     | _____          | _____     | _____                     |
| 6. | _____     | _____          | _____     | _____                     |

**I. Summary:**

This bill:

- Eliminates the distribution of documentary stamp tax revenues into the State Housing Trust Fund and the Local Government Housing Trust Fund;
- Requires certain Florida Housing Finance Corporation (FHFC) funds to be accounted for by the Corporation and deposited into the State Housing Trust Fund and the expenditure of such funds to be appropriated by the Legislature;
- Requires FHFC program loan repayments, proceeds and interest to revert to the General Revenue Fund;
- Provides FHFC budget amendment requests shall be subject to approval by the Legislative Budget Commission;
- Provides for the deposit of certain monies into the Local Government Housing Trust Fund, and for certain investment interests within the fund to be credited to General Revenue; and
- Replaces all references to the Department of Community Affairs with Jobs Florida and all references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

This bill substantially amends the following sections of the Florida Statutes: 201.15, 420.0003, 420.0004, 420.0005, 420.101, 420.111, 420.36, 420.424, 420.503, 420.504, 420.506, 420.507, 420.508, 420.5087, 420.5088, 420.5089, 420.5091, 420.5092, 420.5095, 420.525, 420.526, 420.529, 420.602, 420.606, 420.609, 420.622, 420.631, 420.9073, 420.9079, and 201.0205.

## II. Present Situation:

### Florida Housing Finance Corporation

The Florida Housing Finance Corporation<sup>1</sup> is a state entity primarily responsible for encouraging the construction and reconstruction of new and rehabilitated affordable housing in Florida.<sup>2</sup> It was created in 1997, when the Legislature enacted chapter 97-167, Laws of Florida, to streamline implementation of affordable housing programs by reconstituting the agency as a corporation. The FHFC is a public corporation housed within the Department of Community Affairs (DCA), but is a separate budget entity not subject to the control, supervision, or direction of the DCA. Instead, it is governed by a nine member board of directors comprised of the Secretary of DCA, who serves as an ex officio voting member, and eight members appointed by the Governor, subject to confirmation by the Senate.

The corporation operates several housing programs financed with state and federal dollars, including:

- The State Apartment Incentive Loan Program (SAIL), which annually provides low-interest loans on a competitive basis to affordable housing developers;<sup>3</sup>
- The State Housing Initiatives Partnership Program (SHIP), which provides funds to cities and counties as an incentive to create local housing partnerships and to preserve and expand production of affordable housing;
- The Florida Homeowner Assistance Program (HAP), which includes the First Time Homebuyer Program, the Down Payment Assistance Program, the Homeownership Pool Program, and the Mortgage Credit Certificate program;
- The Florida Affordable Housing Guarantee Program, which encourages lenders to finance affordable housing by issuing guarantees on financing of affordable housing developments financed with mortgage revenue bonds;
- The HOME Investment Partnership Program, which provides low-interest loans from federal funds to developers to finance construction and rehabilitation of homes and rental program;
- The Predevelopment Loan Program, which assists nonprofit and community based organizations, local governments and public housing authorities by providing loans of up to \$750,000 for predevelopment activities; and
- The Community Workforce Housing Innovation Pilot Program (CWHIP), which awards funds on a competitive basis to promote the creation of public-private partnerships to develop, finance, and build workforce housing.<sup>4</sup>

The FHFC receives funding for its affordable housing programs from documentary stamp tax revenues which are distributed to the State Housing Trust Fund and the Local Government

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<sup>1</sup> Formerly the Florida Housing Finance Agency.

<sup>2</sup> Housing is determined to be affordable when a family is spending no more than 30 percent of its total income on housing. See Florida Housing Finance Corporation Handbook, *Overview of Florida Housing Finance Corporation's Mission and Programs*, at 3 (Sept. 2009) (on file with the Senate Committee on Community Affairs).

<sup>3</sup> Under current law, low interest mortgage loans provided under the SAIL Program are only available for qualifying farm workers, commercial fishing workers, the elderly, and the homeless. See s. 420.507(22), F.S.

<sup>4</sup> This information was obtained from the Florida Housing Finance Corporation Handbook, *Overview of Florida Housing Finance Corporation's Mission and Programs*, at 3 (Sept. 2009) (on file with the Senate Committee on Community Affairs).

Housing Trust Fund.<sup>5</sup> Pursuant to s. 420.507, F.S., the FHFC is also authorized to receive federal funding in connection with the corporation's programs directly from the Federal Government.<sup>6</sup>

### Documentary Stamp Tax

The documentary stamp tax imposes an excise tax on deeds or other documents that convey an interest in Florida real property. The Department of Revenue classifies the documentary stamp taxes as two taxes imposed on different bases at different tax rates.<sup>7</sup> The first tax rate is 70 cents on each \$100 of consideration for deeds, instruments, or writings whereby lands, tenements, or other real property or interest that are granted, assigned, transferred, conveyed or vested in a purchaser.<sup>8</sup> The second tax rate is 35 cents per each \$100 of consideration for certificates of indebtedness, promissory notes, wage assignments and retail charge account agreements.<sup>9</sup>

Section 201.15, F.S., provides for the distribution of documentary stamp taxes, which are primarily used to fund various land and water conservation, preservation, and maintenance trust funds and certain transportation trust funds (described in further detail below).<sup>10</sup> In 1992, the William E. Sadowski Act created a dedicated source of revenue from documentary stamp tax revenues for affordable housing. This was generated from:

- Additional revenues from a 10-cent increase in the documentary stamp tax rate imposed on real estate transfers; and
- A re-allocation of ten cents of the existing documentary stamp tax revenues from general revenue to the affordable housing trust funds beginning in FY 1995-96.<sup>11</sup>

According to the FHFC, "30 percent of these revenues flow into the State Housing Trust Fund and 70 percent flow into the Local Government Housing Trust Fund."<sup>12</sup> In 2005, the Legislature capped the annual distribution of documentary stamp tax revenues into these trust funds at \$243 million per year.<sup>13</sup> In the 2010-2011 FY, the Legislature appropriated \$37.5 million to the FHFC.<sup>14</sup>

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<sup>5</sup> Sections 201.15(9) and (10), F.S.

<sup>6</sup> See ss. 420.507(33) and 159.608, F.S.

<sup>7</sup> Florida Revenue Estimating Conference, *2010 Florida Tax Handbook*, at 67-73 (2010) (on file with the Senate Committee on Community Affairs).

<sup>8</sup> *Id.* See also s. 201.02(1), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 201.15(1), F.S.

<sup>11</sup> Florida Housing Finance Corporation Handbook, *Overview of Florida Housing Finance Corporation's Mission and Programs*, at 4 (Sept. 2009) (on file with the Senate Committee on Community Affairs).

<sup>12</sup> *Id.*, see also ss. 201.15(9) and (10), F.S.

<sup>13</sup> Senate Bill 1110 (2005).

<sup>14</sup> Chapter 2010-152, s. 5 Laws of Fla. (HB 5001, General Appropriations Act and Implementing Bill for 2010-2011 Fiscal Year) (on file with the Senate Committee on Community Affairs).

### **Legislative Budget Commission<sup>15</sup>**

The Legislative Budget Commission (Commission) is created in Article 3, section 19 of the Florida Constitution, s. 11.90, F.S., and the Joint Rules of the Florida Legislature. Although the Legislature has the constitutional duty to appropriate the moneys in the state treasury, it has recognized the need for modifications to the budget during the interim between legislative sessions. To this end, the Constitution delegates authority to the Commission to oversee certain aspects of the implementation of the approved budget for the State of Florida. The Commission is empowered in ch. 216, F.S., to ratify certain adjustments to the budget as recommended by the Governor or the Chief Justice of the Supreme Court without the concurrence of the full legislature. The Commission is also charged with developing the long-range financial outlook described in Article 3, section 19, of the Florida Constitution, and with reviewing proposed information technology-related budget amendments in specified instances.

The Commission is comprised of 14 legislative members: seven Representatives appointed by the Speaker and seven Senators appointed by the President. From November of each odd numbered year through October of each even-numbered year, the Senate chairs the Commission and the House is the vice chair. From November of each even-numbered year through October of each odd-numbered year, the House chairs the Commission and the Senate is vice chair.<sup>16</sup>

The Legislative Budget Commission is a standing joint committee of the Legislature created to:

1. Review and approve or disapprove agency requests to amend original approved budgets;<sup>17</sup>
2. Review agency spending plans;<sup>18</sup>
3. Review the recommendations of the Technology Review Workgroup regarding information technology issues;<sup>19</sup> and
4. Take other actions related to the fiscal matters of the state, as authorized by law.

In addition, the Chair and Vice Chair of the Commission, on behalf of the Legislature, may object to any agency action that exceeds the authority delegated to the executive or judicial branches, or is contrary to legislative policy and intent, regardless of whether that action is subject to legislative consultation or Commission approval.<sup>20</sup>

### **III. Effect of Proposed Changes:**

**Section 1** repeals subsections (9) and (10) of s. 201.15, F.S., to eliminate the distribution of documentary stamp tax revenues into the State Housing Trust Fund and the Local Government Housing Trust Fund.

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<sup>15</sup> The information in this section was taken directly from the Florida Legislature, *Online Sunshine* Website; this information is available at [http://www.leg.state.fl.us/cgi-bin/View\\_Page.pl?File=index\\_css.html&Directory=committees/joint/JLBC/&Tab=committees](http://www.leg.state.fl.us/cgi-bin/View_Page.pl?File=index_css.html&Directory=committees/joint/JLBC/&Tab=committees) (last visited on March 24, 2011).

<sup>16</sup> Section 11.90(1), F.S.

<sup>17</sup> Section 216.181(2), F.S.

<sup>18</sup> Section 11.90, F.S.

<sup>19</sup> Section 216.0446, F.S.

<sup>20</sup> Section 216.177(2)(b), F.S.

**Section 2** amends s. 420.0003, F.S., to replace references to “the Department of Community Affairs” with “Jobs Florida.”

**Section 3** amends s. 420.0004, F.S., to change the definition of “Department” to mean “Jobs Florida.”

**Section 4** amends s. 420.0005, F.S., to require certain monies to be deposited into the State Housing Trust Fund within the State Treasury and subjecting the expenditures of such funds to appropriation by the Legislature. This section also requires amounts in the State Housing Trust Fund in excess of amounts appropriated for the current fiscal year to be credited to the General Revenue Fund. This section replaces references to the Department of Community Affairs with Jobs Florida and replaces all references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

**Section 5** amends s. 420.101, F.S., to replace references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

**Section 6** amends s. 420.111, F.S., to replace references to the Department of Community Affairs with Jobs Florida.

**Section 7** amends s. 420.36, F.S., to replace references to the Department of Community Affairs with Jobs Florida.

**Section 8** amends s. 420.424, F.S., to change the definition for “Department” to mean “Jobs Florida” and to replace the definition for “Secretary” with “Commissioner” to mean the Commissioner of Jobs Florida.

**Section 9** amends s. 420.503, F.S., to change the definition for “Department” to mean “Jobs Florida.”

**Section 10** amends s. 420.504, F.S., to replace references to the Department of Community Affairs with Jobs Florida and replace references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

**Section 11** amends s. 420.506, F.S., to replace references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

**Section 12** amends s. 420.507, F.S., to require certain monies to be deposited into the State Housing Trust Fund and subjecting the expenditures of such funds to appropriation by the Legislature. This section also deletes provisions that exempt the Corporation from certain state budgetary requirements and that allow it to retain unused operational expenditures.

**Section 13** amends s. 420.508, F.S., to require certain monies to be deposited into the State Housing Trust Fund within the State Treasury and subjecting the expenditures of such funds to appropriation by the Legislature. This section also deletes provisions that exempt the Corporation from certain state budgetary requirements.

**Section 14** amends s. 420.5087, F.S., relating to the State Apartment Incentive Loan Program (SAIL), to require loan repayments, proceeds and certain funds to be accounted for by the Corporation and deposited into the State Housing Trust Fund. This section also requires expenditures from the SAIL fund to be subject to appropriation by the Legislature and authorizes the corporation to seek budget amendments in order to use certain funds subject to approval by the Legislative Budget Commission. This section deletes provisions that authorize the Corporation to retain unused operational expenditures.

**Section 15** amends s. 420.5088, F.S., relating to the Florida Homeownership Assistance Program, to require the corporation to account for certain monies to be deposited into the State Housing Trust Fund. This section also requires expenditures from the Florida Homeownership Assistance Program to be subject to appropriation by the Legislature. This section also deletes provisions that exempt the Corporation from certain state budgetary requirements and that allow them to retain unused operational expenditures.

**Section 16** amends s. 420.5089, F.S., relating to the HOME Investment Partnership Program, to require the corporation to account for certain monies and to be deposited into the State Housing Trust Fund. This section also deletes provisions that exempt the Corporation from certain state budgetary requirements and that allow it to retain unused operational expenditures. This section directs budget amendment requests to be approved by the Legislative Budget Commission.

**Section 17** amends s. 420.5091, F.S., relating to the HOPE Program, to provide for the deposit of certain funds into the State Housing Trust Fund.

**Section 18** amends s. 420.5092, F.S., relating to the Florida Affordable Housing Guarantee Program, to delete current references to the documentary stamp tax distributions and to authorize certain funds to be used in order support the Guarantee Program.

**Section 19** amends s. 420.5095, F.S., relating to the Community Workforce Housing Innovation Pilot Program, to replace references to the Department of Community Affairs with Jobs Florida.

**Section 20** amends s. 420.525, F.S., to relating to the Housing Predevelopment Fund, to require the Corporation to account for certain monies to be deposited into the State Housing Trust Fund. This section also deletes provisions that exempt the Corporation from certain state budgetary requirements and that allow them to retain unused operational expenditures. This section directs budget amendment requests to be approved by the Legislative Budget Commission.

**Section 21** amends s. 420.526, F.S., relating to the Predevelopment Loan Program, to require the Corporation to account for certain monies that shall be repaid to the State Housing Trust Fund in the State Treasury for expenditure as appropriated by the Legislature.

**Section 22** amends s. 420.529, F.S., to require the Corporation to account for certain monies that shall be repaid to the State Housing Trust Fund in the State Treasury for expenditure as appropriated by the Legislature.

**Section 23** amends s. 420.602, F.S., to define “Commissioner” to mean the Commissioner of Jobs Florida and to change the definition for “Department” to mean “Jobs Florida”. This section also deletes the current definition for “Secretary.”

**Section 24** amends s. 420.606, F.S., to replace references to the Department of Community Affairs with Jobs Florida.

**Section 25** amends s. 420.609, F.S., to replace references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

**Section 26** amends s. 420.622, F.S., to replace references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

**Section 27** amends s. 420.631, F.S., to change the definition of “Department” to mean “Jobs Florida” and to define “Office” to mean the office of Urban Opportunity within Jobs Florida.

**Section 28** amends s. 420.9073, F.S., to revise local housing distributions provisions under the State Housing Initiatives Program and delete current references to the documentary stamp tax distributions under subsections (9) and (10) of s. 201.15, F.S..

**Section 29** amends s. 420.9079, F.S., to require all monies deposited into the Local Government Housing Trust Fund with the State Treasury to be appropriated by the Legislature and to require any interest received on any investments therein to be credited to the General Revenue Fund.

**Section 30** amends s. 201.0205, F.S., to change the source of funding for certain counties that have implemented ch.83-220, Laws of Florida, and are therefore not subject to the 10-cent tax increase imposed by ch. 92-317, s. 2, Laws of Florida.

**Section 31** provides that this act shall take effect on July 1, 2011.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

All monies, as provided in this bill, that are required to be deposited into the State Housing Trust Fund and the Local Government Housing Trust Fund will now be subject to appropriation by the Legislature.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

This bill removes the documentary stamp tax distributions to the State Housing Trust Fund and the Local Government Housing Trust Fund currently provided under subsections (9) and (10) of s. 201.15, F.S..

The Revenue Estimating conference estimated, on March 18, 2011 the Fiscal Year 2011-2012 documentary stamp tax revenue for the State Housing Trust Fund as \$57.54 million, and for the Local Government Housing Trust Fund as \$134.63 million. As a result of this bill, these two trust funds will lose \$192.17 million in FY 2011-2012, and the General Revenue Fund revenues for the same year will increase by \$192.17 million.

**B. Private Sector Impact:**

The Florida Housing Finance Corporation will now be required to account for program funds and deposit all monies into the State Housing Trust Fund and the Federal Grants Trust Fund, which shall be subject to appropriation by the Legislature.

The FHFC will also be required to obtain approval from the Legislative Budget Commission on all budget amendment requests.

**C. Government Sector Impact:**

The Legislature will now have appropriations authority over all monies deposited into the State Housing Trust Fund and the Local Government Housing Trust Fund. This bill directs that the Legislative Budget Commission may approve budget amendment requests from the FHFC.

**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.)

None.

**B. Amendments:**

None.



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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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