

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 Community Affairs Committee

BILL: SB 1182

INTRODUCER: Senator Norman

SUBJECT: Public Housing

DATE: January 24, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill provides a finding that essential commercial goods and services required for daily living are necessary to residents of housing authorities but are difficult to access. To address this, the bill grants a housing authority the ability to develop and construct commercial projects, collocated with housing projects, that would provide these types of goods and services. Revenue received by a housing authority from a commercial project must be used to upgrade and improve the housing project or to preserve and rehabilitate other housing authority properties. A commercial project so established would be exempt from property taxation and all taxes and special assessments of the state or any city, town, county, or political subdivision of the state. A housing authority's power of eminent domain would not apply to real property used to provide access to essential commercial goods and services.

This bill substantially amends sections 421.02, 421.03, 421.08, 421.09, 421.32, 422.02, 422.04, 423.01, 423.02 of the Florida Statutes.

This bill substantially amends and reenacts section 421.21 of the Florida Statutes.

II. Present Situation:

Public Housing Authorities

The state role in housing and urban development is outlined in part I of ch. 421, F.S., (Housing Authorities Law), ch. 422, F.S., (Housing Cooperation Law), and ch. 423, F.S., (Tax Exemption

of Housing Authorities).¹ Section 421.02, F. S., finds that there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford. Providing such accommodations, including the acquisition by a housing authority of property to be used for or in connection with housing projects, are deemed exclusively public uses and purposes for which public money may be spent and private property acquired and are governmental functions of public concern.

City, County, and Regional Housing Authorities

Florida statutes provide for the creation of special district city, county and regional housing authorities. Of the 110 Public Housing Authorities in Florida,² 93 are special districts.³

The determination of the need for a city housing authority may be made by the governing body of a city or upon the filing of a petition signed by 25 city residents. The mayor, with the approval of the governing body, appoints no fewer than five and no more than seven persons as commissioners of the authority.⁴ The powers of each authority are vested in the commissioners and action may be taken upon a majority vote of the commissioners. No commissioner or employee of an authority may acquire any interest in any housing project or in any property included or planned to be included in any project, nor in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project.⁵

Section 421.08, F.S., establishes the powers of a housing authority including:

- the power to acquire, lease, and operate housing projects,
- the power to provide for the construction, reconstruction, improvement, alteration, or repair of any housing project,
- the power to lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project, and
- the power to invest any funds held in reserves or sinking funds.

Section 421.08(8)(a), F.S., grants the power to:

organize for the purpose of creating a for-profit or not-for-profit corporation, limited liability company, or other similar business entity . . . to develop, acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects. These projects may include nonresidential uses and may use public and private funds to serve individuals or families who meet the applicable income requirements of the state or federal program involved; . . .

¹ The Department of Economic Opportunity (DEO) is the state agency charged with the responsibility of this state role.

² Florida Housing Data Clearing House, *Public Housing Agency Results*, available at http://flhousingdata.shimberg.ufl.edu/a/public_housing_agency?next=results&submit_submit.x=15&submit_submit.y=13&nid=1 (last visited Jan. 26, 2012).

³ Florida Department of Economic Opportunity, *Official List of Special Districts Online*, (available online at <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/index.cfm>) (last visited Jan. 26, 2012).

⁴ At least one commissioner must be a resident of a housing project or a person of low income who resides within the housing authority's jurisdiction and is receiving a rent subsidy.

⁵ See ss. 412.04, 421.05 and 421.06, F.S.

Section 421.27, F.S., governs the creation and powers of county housing authorities which is similar to the creation of city housing authorities.⁶ A county housing authority's area of operation includes all of the county except that portion which lies within the territorial boundaries of any city as defined in the Housing Authorities Law. A regional housing authority may be created by two or more contiguous counties if a regional entity would be a more economically or administratively efficient unit.⁷ The powers of a regional housing authority are analogous to those of a city or county housing authority.

Housing Authorities and Eminent Domain

An authority has the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes.⁸ Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the city, the county, the state or any political subdivision may be acquired without its consent.

Federal Aid for Housing Authorities

Section 421.21, F.S., empowers a housing authority to borrow money or accept grants or other financial assistance from the Federal Government for housing projects. This section also allows a housing authority to take over or lease or manage any housing project or undertaking constructed or owned by the Federal Government. In addition, an authority is authorized "to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance or operation of any housing project by such authority."⁹

Housing Cooperation Law (Chapter 422, Florida Statutes)

Chapter 422, Florida Statutes, provides that any state public body, for the purpose of aiding and cooperating in the construction or operation of housing projects may:

- sell or lease any of its property to a housing authority or the Federal Government;
- cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities or any other works, which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;
- furnish, close, pave, install, grade, or plan streets, roads, alleys, or sidewalks;
- do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of housing projects;
- purchase or legally invest in any of the debentures of a housing authority.¹⁰

⁶ In counties, petitions must be signed by 25 county residents and the Governor appoints the commissioners.

⁷ See s. 421.28, F.S. The Governor appoints commissioners pursuant to s. 421.30, F.S.

⁸ Section 421.12, F.S. An authority may exercise the power of eminent domain pursuant to ch. 73 and ch. 74, F.S.

⁹ Section 421.21, F.S.

¹⁰ See s. 422.04(1), F.S.

Tax Exemption of Housing Authorities

Chapter 423, Florida Statutes, provides property tax exemptions as well as state and local government tax and assessment exemptions for housing authorities. Specifically, s. 423.01(4), F.S., states:

Such housing projects, including all property of a housing authority used for or in connection therewith or appurtenant thereto, are exclusively for public uses and municipal purposes and not for profit, and are governmental functions of state concern. As a matter of legislative determination, it is found and declared that the property and debentures of a housing authority are of such character as may be exempt from taxation.

Section 423.02, F.S., states that

. . . housing projects, including all property of housing authorities used for or in connection therewith or appurtenant thereto, of housing authorities shall be exempt from all taxes and special assessments of the state or any city, town, county, or political subdivision of the state . . .¹¹

Age of Public Housing Units in Florida

The first public housing units were built in Florida in the 1940s. According to the Shimberg Center for Housing Studies at the University of Florida, as of 2009, public housing authorities provided 35,840 housing units in the state. Of these, 77% were built before 1980 and 15% are now over 50 years old.¹² The table below provides data on numbers and ages of public housing units.

Public Housing by Decade¹³	
Decade Built	Housing Units
1940-1949	2,991
1950-1959	2,475
1960-1969	5,647
1970-1979	14,442
1980-1989	3,021
1990-1999	1,030
2000-2009	3,759
Total	33,365

¹¹ In lieu of such taxes or special assessments a housing authority may agree to make payments to a local government for services, improvements or facilities furnished by the entity for the benefit of a housing project owned by the housing authority.

¹² E-mail from Anne Ray, Florida Housing Data Clearinghouse Manager, Shimberg Center for Housing Studies (Jan. 26, 2012) (on file with the Senate Committee on Community Affairs).

¹³ According to the Florida Housing Data Clearinghouse, the year built is unknown for 2,475 of the units.

The Affordable Housing Commission's 2006 Annual Report highlighted the age and expiration of Florida's affordable housing stock stating that the physical condition and maintenance of older units was a cause for concern.¹⁴ The report went on to outline the parameters of the situation.

From a preservation perspective, the threat to public housing is the ongoing deterioration of an aging stock. Additionally, the physical condition of public housing properties is crucial to the ability of PHAs [Public Housing Authorities] to rent the units and generate revenue. The capital needs of public housing have been chronically under-funded for much of the program's history, and the mechanisms to address maintenance and rehabilitation can be unwieldy. Early in the program's history, too little funding was provided to keep maintenance problems in check and today these long deferred maintenance issues continue to worsen.

III. Effect of Proposed Changes:

Section 1 amends s. 421.02, F.S., by declaring that an important public purpose is served by providing access to essential commercial goods and services necessary for daily living for persons served by public housing authorities. Limited transportation capacity and significant family demands are cited as complications for these persons in their access efforts.

Section 2 amends s. 421.03, F.S., related to definitions. "Essential commercial goods and services" is newly defined to mean goods, such as groceries and clothing, and services, such as child care, K-12 education, financial services, job training and placement, and laundry facilities that are necessary for daily living and that may be difficult for persons of low income to access unless collocated¹⁵ with the housing project where they live and substantially serving persons of low income.

The definition of "housing project" is amended to also include any work or undertaking "to provide access to essential commercial goods and services."

Section 3 amends s. 421.08, F.S., to preclude a housing authority's power of eminent domain with respect to real property used to provide access to essential commercial goods and services. A housing authority's current power to develop, acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects is expanded to also include commercial projects that allow access to essential goods and services for persons of low income residing in such residential projects.

This section of the bill also proscribes that any revenue received by a housing authority from the specified commercial projects must be used exclusively to upgrade and improve living conditions in the housing project or to preserve and rehabilitate public or affordable housing managed by the housing authority.

¹⁴ The Affordable Housing Study Commission, *A Preservation Strategy for Florida's Affordable Multifamily Housing* (2006) available at <http://www.floridahousing.org/NR/rdonlyres/63332252-F3EA-486A-9F59-B95E7F6CDE56/0/AHSCFinalReport2006.pdf> (last visited Jan. 26, 2012).

¹⁵ Collocate is defined as "to set or place together, especially side by side." See <http://dictionary.reference.com/browse/collocate>. The words collocate or collocated are found in at least 13 Florida statutes.

Section 4 amends s. 421.09, F.S., to make a conforming cross reference.

Section 5 reenacts and amends s. 421.21, F.S., to update and clarify language.

Section 6 amends s. 421.32, F.S., to update language and make conforming cross references.

Section 7 amends s. 422.02, F.S., by making a cross reference related to the access of essential commercial goods and services necessary for daily living.

Section 8 amends s. 422.04, F.S., to expand a state body's authority to aid in the planning, undertaking, construction, or operation of certain projects furnished adjacent to or in connection with housing projects. The bill includes commercial projects that allow access to essential goods and services for persons of low income residing in housing projects among the allowable projects. Language is also update and clarified.

Section 9 amends s. 423.01, F.S., to expand the current housing authority exemption from property and debentures taxation to include all property used to provide access to essential goods and services necessary for daily living for persons residing in housing projects. In addition, this section of the bill declares that facilities made available by housing authorities to provide access to essential goods and services necessary for daily living for persons residing in housing projects are a critical component of those housing projects and constitute a public use and a governmental function.

Section 10 amends s. 423.02, F.S., to expand the current housing authority exemption from all taxes and special assessments of the state or any city, town, county, or political subdivision of the state to also include all commercial projects that allow access to essential goods and services for persons of low income residing in housing projects.

Section 11 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18, Art. VII, State Constitution, provides that except upon approval by two-thirds of the members of each house, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989. The tax exemption provisions of this bill would reduce the revenue-raising authority of municipalities and counties and may require a two-thirds vote of the membership of each house of the Legislature.

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:

Residents of public housing projects would experience indeterminate transportation savings if the commercial projects proposed by the bill are created on housing authority property. Owners of any commercial projects created would realize assorted indeterminate savings due to the various taxing and assessment exemptions provided in the bill.

C. Government Sector Impact:

Housing authorities would experience an indeterminate reduction in maintenance costs as a result of the new revenue streams to preserve and rehabilitate public housing projects. Local government bodies would incur an indeterminate loss in potential tax revenues due to the exemption provisions of the bill.

The Revenue Estimating Conference has not met to consider the fiscal impact of this bill.

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.