

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 547 Community Redevelopment Agencies

SPONSOR(S): Fresen

TIED BILLS: **IDEN./SIM. BILLS:** SB 840

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	9 Y, 5 N	Duncan	Hoagland
2) Finance & Tax Committee		Flemming	Langston
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The Community Redevelopment Act of 1969, Ch. 163, Part II, F.S. (Act), was enacted to provide a mechanism to revitalize slum and blighted areas “which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state.” The Act authorizes each local government to establish a Community Redevelopment Agency (CRA) to revitalize designated slum and blighted areas upon a “finding of necessity” and a further finding of a need for a CRA to carry out community redevelopment.

The bill applies to counties defined in s. 125.011(1), F.S., and requires community redevelopment agencies (CRAs) operating within such counties to submit annual performance reviews conducted by and at the discretion of the board of county commissioners (Board). The bill grants these counties with the power to terminate a CRA operating or located within its boundaries, if the Board determines certain conditions exist. The Board is required to notify the CRA of the proposed termination and the grounds for the termination in writing at least 30 days before the public hearing on the CRA’s termination. An approved termination plan is required and the elements of the plan are provided in the bill. The bill also establishes additional requirements regarding the operation of a CRA’s redevelopment trust fund.

The bill requires CRAs located and operating in a county as defined in s. 125.011(1), F.S., to submit to a forensic audit performed by a licensed and independent forensic accountant at least every 5 years, as requested by the Board. The forensic audit must include, but is not limited to, a review of an agency’s assets, liabilities, income, and operating expenses to ensure that the agency has not engaged in financial misconduct or wasteful activity.

The bill becomes effective on July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

BACKGROUND

The Community Redevelopment Act of 1969, ss. 163.330-163.463, F.S. (Act), was enacted to provide a mechanism to revitalize slum and blighted areas “which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state.”¹ The Act authorizes each local government to establish a CRA to revitalize designated slum and blighted areas upon a “finding of necessity” and a further finding of a need for a CRA to carry out community redevelopment.²

PRESENT SITUATION

Redevelopment of distressed urban communities is primarily a local government responsibility. Local governments use the state’s redevelopment programs in conjunction with other federal and local programs to help package deals for revitalizing distressed urban communities. While Florida’s programs do not directly provide a large amount of funds, they are viewed as being useful in helping leverage other funding support and in demonstrating government commitment to revitalization. Florida’s programs also are viewed as being useful in helping local governments get community and private sector buy-in on revitalization projects.³

The Florida Legislature has created or authorized the creation of several programs and mechanisms to encourage businesses to operate in and provide jobs in distressed areas. These programs and mechanisms also assist local governments in financing infrastructure and capital projects that will result in revitalizing business and residential communities.

Special Districts

Special districts are local units of special purpose government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.⁴

The largest categories of special districts that focus on community and/or economic development are community redevelopment agencies (CRAs) and community development districts (CDDs). As of January 13, 2012, there are 205 CRAs and 577 CDDs in Florida.⁵ Other special districts that focus on community and/or economic development are:⁶

- Neighborhood improvement districts – 29
- Industrial development districts – 24
- Downtown development/improvement districts – 14
- Municipal-type services and improvements – 12
- Economic development districts – 10
- Infrastructure development districts – 10
- Capital improvement districts – 4

¹ Section 163.335, F.S.

² Section 163.356, F.S.

³ Florida Legislature, Office of Program Policy Analysis and Government Accountability, Locals Find Urban Revitalization Programs Useful; More Centralized Program Information Would Be Helpful, Report No. 05-32, at 1(May 2005), *available at* <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0532rpt.pdf>.

⁴ Section 189.403(1), F.S.

⁵ Department of Economic Opportunity, Division of Community Development, Special District Information Program, *available at* <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/alldistricts.cfm> (last visited February 3, 2012).

⁶ *Id.*

- Business improvement districts – 1

Creation of Community Redevelopment Agencies

Upon the finding of necessity and finding a need for a CRA to function in the county or municipality to carry out community redevelopment, any county or municipality may create a CRA.⁷ A charter county having a population less than or equal to 1.6 million may create more than one CRA.⁸ CRAs of a “county have the power to function within the corporate limits of a municipality only as, if, and when the governing body of the municipality has by resolution concurred in the community redevelopment plan or plans proposed by the county’s governing body.”⁹ The governing body adopting a resolution declaring a need for a CRA is required to appoint a board of commissioners of the CRA, which must consist of five to nine commissioners, serving four-year terms.¹⁰

The county or municipal governing body is required to designate a chair and vice chair from among the commissioners.¹¹ The CRA may employ an executive director, technical experts, and other employees.¹² The CRA is required to file with the governing body, on or before March 31 of each year, a report of its activities for the preceding fiscal year.¹³ The CRA must provide a complete financial statement including its assets, liabilities, income, and operating expenses as of the end of the fiscal year.¹⁴ The CRA must publish in a newspaper of general circulation in the community a notice to the effect that the report has been filed with the county or municipality and that the report is available for inspection during business hours in the office of the clerk of the city or county commission and in the office of the CRA.¹⁵

Community Redevelopment Agency Plans

Each community redevelopment area must have an approved community redevelopment plan that is consistent with the local government comprehensive plan.¹⁶ The community redevelopment plan must be sufficiently complete to indicate any land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation to be carried out in the designated area.¹⁷ The plan must also provide for the development of affordable housing in the area or state the reasons for not addressing the issue in the plan.¹⁸ The local government may subsequently modify the community redevelopment plan upon the recommendation of the CRA.¹⁹

The Act also authorizes CRAs, those created by counties or municipalities, to recommend modification to community redevelopment plans.²⁰ Amendments to the community redevelopment plan are permitted to change the boundaries of a redevelopment area or the development and implementation of community policing innovations.²¹

CRAs are funded primarily through tax increment financing (TIF).²² As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value.²³ Each non-exempt taxing authority that levies taxes on property

⁷ Section 163.356(1), F.S.

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 163.356(2), F.S.

¹¹ Section 163.356(3)(c), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 163.360(2)(a), F.S.

¹⁷ Section 163.360(2)(b), F.S.

¹⁸ Section 163.360(2)(c), F.S.

¹⁹ Section 163.361(1), F.S.

²⁰ *Id.*

²¹ *Id.*

²² *See s. 163.387, F.S.*

²³ Harry M. Hipler, *Tax Increment Financing in Florida: A Tool for Local Government Revitalization, Renewal, and Redevelopment*, 81 FLA. B.J. 66 (Aug. 2007).

within a community redevelopment area must annually appropriate the amount of increment revenues to the CRA trust fund.²⁴ These revenues are used primarily to service bonds issued to finance redevelopment projects.²⁵ CRAs created prior to 2002 may receive TIF contributions for 60 years, while CRAs subsequently created may receive TIF contributions for 40 years.²⁶

The Community Redevelopment Act and Counties with Home Rule Charters

The Act provides that in any county which has adopted a home rule charter, the powers must be exercised exclusively by the governing body of such county.²⁷ However, the governing body of any such county which has adopted a home rule charter may, in its discretion, by resolution delegate the exercise of the powers conferred upon the county within the boundaries of a municipality to the governing body of such municipality.²⁸ Such a delegation to a municipality must confer only such powers upon a municipality as are specifically enumerated in the delegating resolution.²⁹ Any power not specifically delegated must be reserved exclusively to the governing body of the county.³⁰ These provisions do not affect any CRA created by a municipality prior to the adoption of a county home rule charter.³¹

County Government

Chapter 125, F.S., relates to county governance. Section 125.011(1), F.S., defines “county” to mean “any county operating under a *home rule charter* adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word ‘county’ within the above provisions shall include ‘board of county commissioners’ of such county.”³²

Section 6(e) of Art. VIII of the Florida Constitution provides that ss. 9, 10, 11, and 24 of Art. VIII of the Constitution of 1885, as amended, remain in full force and effect as to each county affected, until a county expressly adopts a charter or home rule plan pursuant to that article. Sections 9, 10, 11, and 24 refer to Duval, Monroe, Dade and Hillsborough counties, respectively. The Miami-Dade County Home Rule Charter was approved by its voters and adopted in 1957.³³

EFFECT OF PROPOSED CHANGES

Creation and Termination of a Community Redevelopment Agency

The provisions in this bill apply to counties defined in s. 125.011(1), F.S.,³⁴ and require CRAs operating within such counties to submit annual performance reviews conducted by, and at the discretion of, the board of county commissioners (Board). The bill grants these counties with the power to terminate a CRA operating or located within its boundaries, if the Board determines:

- The CRA has been inefficient in removing slum and blight within the community redevelopment area;
- The CRA has neglected its duties and responsibilities under the community redevelopment plan or under an interlocal agreement between the county’s governing body and/or any taxing authority and the CRA;

²⁴ See s. 163.387, F.S.

²⁵ *Id.*

²⁶ Section 163.387(2)(a), F.S.

²⁷ Section 163.410, F.S.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Section 125.011(1), F.S.

³³ Florida Association of Counties, Charter County Information, available at http://www.fl-counties.com/Pages/About_Floridas_Counties/Charter_County_Information.aspx (last visited February 3, 2012).

³⁴ See *County Government* in this Staff Analysis, p.4

- The CRA has engaged in financial misconduct or wasteful activities as evidenced by any forensic audit, annual performance review, or annual report of the CRA's activities for the previous fiscal year, including the complete financial statement; or
- There is no longer a need for the CRA.

A public hearing is required before the Board terminates the CRA by the adoption of a resolution approving the termination pursuant to a termination plan.

The Board is required to notify the CRA of the proposed termination and the grounds for the termination in writing at least 30 days before the public hearing on the CRA's termination. Once the CRA has been given notice, the CRA is prohibited from issuing bonds, incurring further debt, or entering into any contract, unless approved by the Board. The CRA must respond to the notice of proposed termination and the grounds for the termination in writing at least 5 days prior to the public hearing.

The termination plan approved by the Board:

- Must, if the CRA has outstanding debt, including debt that pledges increment revenues as a source of repayment, require repayment of the debt, or make provision for the repayment, on or before it is due and may require taxing authorities to continue making required contributions until the repayment is paid;
- May require the governing body of the county to assume the powers of the CRA and act as the CRA's board of commissioners for purposes of overseeing the continued payment of outstanding debt or the completion of projects begun before the date of the notice of termination;
- Must provide an effective date for the CRA to be terminated, which must be a date after payment or provision for payment of all outstanding debt of the CRA; and
- Must provide that after the CRA's termination the obligation of a taxing authority to contribute to the redevelopment trust fund is automatically terminated by operation of law and any funds remaining in the trust fund is required to be disbursed to the taxing authorities in proportion to the amounts contributed by such taxing authorities.

The bill further provides that notwithstanding any provision of law to the contrary, consent to termination is not required from the CRA, from the governing body of a municipality within which the CRA operates or which was delegated the authority to create the CRA, from the taxing authorities that contribute to the CRA's redevelopment trust fund, or from any other person or entity.

Community Redevelopment Plans

The bill provides that in any county defined in s. 125.011(1), F.S., any redevelopment plan that is approved or amended after July 1, 2012, must also provide a specific date by which each redevelopment activity that is a part of a redevelopment project proposed to be funded by the increment fund is scheduled to be completed.

Redevelopment Trust Fund

The bill provides that for the purpose of the expenditure of moneys in redevelopment trust funds in counties defined in s. 125.011(1), F.S., the following apply:

- A CRA operating in the county must submit an annual budget indicating any proposed expenditures of increment revenues by August 15 of each year.
- The Board may approve the budget by resolution.
- Increment revenues contributed by the county may not be expended for redevelopment activities without the approval of the Board, unless such expenditures are to pay existing debts and contractual obligations of the CRA.
- Existing debts or contractual obligations include only such debt incurred pursuant to revenue bonds issued and moneys owed from contracts entered into before the date of the termination notice. Existing debts or contractual obligations may not include salaries of at-will employees whose duties are directly associated with the provision of administrative or other services and who are employed

by a CRA or a municipality that provides administrative or other services to a CRA. Existing debts or contractual obligations may not include contracts that are terminable at will.

- The CRA may not seek permission to issue bonds, incur further indebtedness, or enter into contracts until the Board has approved the CRA's annual budget.

Notwithstanding any provision in this section, in a county as defined in s. 125.011(1), F.S., if the CRA's issuance of debt has been approved, the CRA's payment of debt service for debt secured by increment revenues does not require the approval of the Board as a part of the CRA's annual budgetary approval process.

Current law provides that on the last day of the CRA's fiscal year, any money that remains in the redevelopment trust fund after expenses have been paid must be appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan. The bill amends this provision to provide that in a county defined in s. 125.011(1), F.S., such funds may only be appropriated if:

- The project will be completed within three years after the date of such appropriation; and
- Before the appropriation, an acceptable construction timeline and budget for the project is submitted to and approved by the Board.

In addition to the audit required by the Act, a CRA located and operating in a county as defined in s. 125.011(1), F.S., is required submit to a forensic audit³⁵ performed by a licensed and independent forensic accountant³⁶ at least every 5 years, as requested by the Board. The forensic audit must include, but is not limited to, a review of an agency's assets, liabilities, income, and operating expenses to ensure that the agency has not engaged in financial misconduct or wasteful activity.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.356, F.S., requiring agencies to submit performance reviews and providing guidelines for terminating a community redevelopment agency.

Section 2: Amends s. 163.362, F.S., requiring a community redevelopment plan to include a deadline for each redevelopment activity.

Section 3: Amends s. 163.387, F.S., establishing guidelines for the expenditure of moneys in redevelopment trust funds and requiring CRAs to submit to a forensic audit at the request of the Board.

Section 4: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

³⁵ A "forensic audit" is the application of accounting methods to the tracking and collecting of forensic evidence, usually for investigation and prosecution of criminal acts such as embezzlement or fraud. BusinessDictionary.com *available at* <http://www.businessdictionary.com/definition/forensic-audit.html> (last visited February 3, 2012); see Robert M. Torok, *Accounting and You*, 66 CLEV. B.J. 31 (1995).

³⁶ Forensic accountants are professionals who use a unique blend of education and experience to apply accounting, auditing, and investigative skills to uncover truth, form legal opinions, and assist in investigations. Forensic accountants may be involved in both litigation support (providing assistance on a given case, primarily related to the calculation or estimation of economic damages and related issues) and investigative accounting (looking into illegal activities). American College of Forensic Examiners International, *available at* http://www.acfei.com/forensic_certifications/crfa/ (last visited February 3, 2012).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Community redevelopment agencies located in counties defined in s. 125.011(1), F.S., would be required to pay the cost of a forensic audit, which is required at least every five years.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Line 133 refers to the "increment fund." The correct term should be "redevelopment trust fund."

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A.