

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 921 Tax Exemptions for Property Used for Affordable Housing

SPONSOR(S): Renuart

TIED BILLS: **IDEN./SIM. BILLS:** SB 740

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	11 Y, 0 N	Duncan	West
2) Finance & Tax Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill removes the provision authorizing the affordable housing property exemption to apply to affordable housing owned by a Florida-based limited partnership whose sole general partner is a not for profit corporation qualified as charitable under the Internal Revenue Code. The bill also makes technical corrections to the amended provision.

Removing the affordable housing property exemption for limited partnerships should have a positive fiscal impact on local governments.

The bill is effective upon becoming a law and the removal of the exemption applies to the 2013 ad valorem tax rolls.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In 1999,¹ the Legislature authorized property owned entirely by a not for profit corporation and used to provide affordable housing through any state housing program under chapter 420, F.S., and serving low-income and very-low-income persons, to be considered property as owned by an exempt entity used for charitable purpose and exempt from ad valorem taxation. The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations.

In 2009,² and later reenacted in 2011,³ the Legislature expanded the affordable housing property exemption to apply to property owned entirely by a not for profit corporation, or a Florida-based limited partnership whose sole general partner is a not for profit corporation. The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code. Any property owned by a limited partnership which is disregarded as an entity for federal income tax purposes is treated as if owned by its sole general partner.

The unintended effect of the expanded provision is that an affordable housing (i.e., low income housing tax credit) development with a nonprofit general partner can claim a tax exemption even though the limited partnership that owns the property is a for-profit corporation. While the provision may be beneficial to non-profit developments, the provision may also be misused if a for-profit developer uses a compliant non-profit, which has no significant role in the development's construction or operations, to gain the tax exemption.

Effect of Proposed Changes

The bill removes the provision authorizing the affordable housing property exemption to apply to affordable housing owned by a Florida-based limited partnership whose sole general partner is a not for profit corporation. The bill also makes technical corrections to the amended provision. The removal of such authority is effective upon becoming a law and applies to the 2013 ad valorem tax rolls.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.1978, F.S., relating to the affordable housing property exemption, to remove the application of the exemption to property owned by a Florida-based limited partnership whose sole general partner is a not for profit corporation; and to make technical corrections.

Section 2: Provides that the act becomes effective upon becoming a law and must apply first to the 2013 ad valorem tax rolls.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

¹ Section 15, ch. 99-378, L.O.F., codified at s. 196.1978, F.S.

² Section 18, ch. 2009-96, L.O.F., amending s. 196.1978, F.S.

³ Section 4, ch. 2011-15, L.O.F., reenacting s. 196.1978, F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. The bill eliminates the authority for an affordable housing property tax exemption for affordable housing developments owned by a limited partnership whose sole general partner is a not for profit corporation. The elimination of this exemption should have a positive fiscal impact on local governments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Property used to provide affordable housing and owned by Florida-based limited partnerships, the sole general partner of which is a not for profit corporations will be prohibited from claiming an affordable housing tax exemption.

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 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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES