

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/CS/HB 1235	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Appropriations Committee; Children, Families and Seniors Subcommittee; Miller; Brodeur; La Rosa	114 Y's	0 N's
COMPANION BILLS:	CS/HB 1534	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/CS/HB 1235 passed the House on March 8, 2016, as CS/SB 1534. The bill makes numerous changes to the operations of the Florida Housing Finance Corporation (FHFC), and laws related to housing assistance, including housing for individuals and families who are homeless. The bill:

- Amends the State Apartment Incentive Loan (SAIL) Program to better align funding with projected demand for affordable housing, and requires rent controls on rental units financed through the SAIL program based on applicable income.
- Amends provisions relating to the State Office on Homelessness and the Challenge Grant Program that provides grants to lead agencies of homeless assistance continuums of care (CoC).
- Expresses legislative intent to encourage homeless CoC to adopt the Rapid ReHousing approach to preventing homelessness and requires Rapid ReHousing to be added to components of a CoC plan.
- Amends several aspects of the State Housing Initiatives Partnership (SHIP) Programs related to distributions for ongoing rent subsidies, monitoring requirements when SHIP funds are used for rental housing developments, the composition of local Affordable Housing Advisory Committees, the review of local housing assistance plans, requirements for local governments to use program distributions to serve persons with special needs, and regional partnerships between local governments to pool appropriated funds to address homeless housing needs.
- Authorizes the FHFC to forgive indebtedness for SAIL loans for small properties serving homeless persons in certain underserved counties or rural areas, make loans exceeding 25 percent of the cost for those projects, and implement bans on developers for any length of time for fraudulent applications.
- Requires the FHFC to reserve a minimum of five percent of the annual appropriation from the State Housing Trust Fund for housing projects that serve persons with a disabling condition, with first priority given to projects serving persons with a developmental disability.
- Expresses legislative intent to encourage the state entity that administers funds from the National Housing Trust Fund to propose an allocation plan that includes strategies to reduce homelessness and the risk of homelessness in Florida.
- Makes changes to laws that place requirements, exemptions, and prohibitions on housing authorities.

The bill has an indeterminate, but expected insignificant fiscal impact on state and local governments. While programs that provide services to homeless persons may receive additional resources, the private sector impact of the bill is indeterminate.

The bill was approved by the Governor on April 8, 2016, ch. 2016-210, L.O.F., and will become effective on July 1, 2016.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1235z1.EDTS

DATE: April 11, 2016

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Homelessness

There are three main categories of persons who are homeless:

- *Sheltered homeless persons*: individuals who are staying in emergency shelters, transitional housing programs, or safe havens;
- *Unsheltered homeless persons*: individuals who stay in places not meant for human habitation, such as the streets, abandoned buildings, vehicles, or parks; and
- *Chronically homeless persons*: homeless individuals with disabilities who have been either continuously homeless for a year or more or have experienced at least four episodes of homelessness in the last three years.¹

According to the 2015 Annual Homeless Assessment Report, Florida has the third highest number of persons who are homeless in the United States² and a high percentage of unsheltered homelessness, including a high number of unsheltered chronically homeless people.³ However, while the number of homeless individuals is high, Florida had the largest decrease in homelessness from 2014 to 2015, reducing its homeless population by 5,642 individuals, or 13.6 percent.⁴

Housing First

In recent years, there has been a shift in the response to homelessness toward the Housing First philosophy.⁵ Housing First provides a critical link between the emergency and transitional housing system and community-based social service, educational, and health care organizations.⁶ This approach to homelessness differs from traditional approaches by providing housing assistance, case management, and support services responsive to individual or family needs after housing is obtained and emphasizes that social services provided to enhance individual and family well-being can be more effective when people are in their own home.⁷ The Housing First approach addresses the societal causes of homelessness and advocates for the immediate return of individuals and families into housing and communities.⁸

Rapid Re-Housing

Rapid re-housing is a model for providing housing for individuals and families who are homeless that places a priority on moving a family or individual experiencing homelessness into permanent housing as quickly as possible, ideally within 30 days.⁹ The rapid re-housing model developed from the

¹ U.S. Department of Housing and Urban Development, *The 2015 Annual Homeless Assessment Report (AHAR) to Congress, PART 1: Point-in-Time Estimates of Homelessness*, (November 2015), available at <https://www.hudexchange.info/resources/documents/2015-AHAR-Part-1.pdf> (last visited January 22, 2016).

² *Id.* at 12. More than half of the homeless population in the United States was in five states: CA (21% or 115,738 people), NY (16% or 88,250 people), FL (6% or 35,900 people), TX (4% or 23,678 people), and MA (4% or 21,135 people).

³ *Id.* at 23, 63. Over half of Florida's homeless population is estimated to be unsheltered; additionally, nearly 80 percent of Florida's chronically homeless are estimated to be unsheltered.

⁴ *Id.* at 12-13. This is part of a larger trend for Florida, which has a decline in number of homeless individuals since 2007; Florida experienced a decline of 12,169 homeless individuals, or 25.3 percent, from 2007 to 2015.

⁵ Mary Cunningham, Sarah Gillespie, and Jacqueline Anderson, *Rapid Re-housing: What the Research Says*, Urban Institute, (June 2015), pp. 8-9.

⁶ S. 420.6275(2)(b), F.S.

⁷ S. 420.6275(2)(a), F.S.

⁸ *Id.*

⁹ National Alliance to End Homelessness, *Rapid Re-Housing: A History and Core Components*, (2014), available at: <http://www.endhomelessness.org/page/-/files/RRH%20Core%20Elements%20Brief.pdf> (last visited January 22, 2016).

Housing First philosophy.¹⁰ The model initially focused primarily on people experiencing homelessness due to short-term financial crises; however, programs across the country have begun to assist individuals and families who are traditionally perceived as more difficult to serve.¹¹

There are three core components of rapid re-housing programs:

- *Housing identification services:* Households are matched to appropriate and affordable housing in the community.
- *Financial assistance for housing related expenses:* Time-limited financial assistance is provided to get individuals and families back on their feet.
- *Case management services:* Case management services are provided to help households address barriers that prevent access to or stability in stable housing.¹²

In 2008, the U.S. Department of Housing and Urban Development (HUD) expanded rapid re-housing through the Rapid Re-Housing for Homeless Families Demonstration program, which provided funds for pilot programs across the country.¹³ In 2009, Congress established rapid re-housing as an eligible activity for federal Emergency Shelter Grants program funds.¹⁴ Since federal funding for rapid re-housing first became available, a number of communities, including Palm Beach County, that prioritized rapid re-housing as a response to homelessness have seen decreases in the amount of time that households spend homeless, reduced recidivism to homelessness, and improved permanent housing outcomes relative to other available interventions.¹⁵

Affordable Housing for Low Income Individuals

In 1986, the Legislature created the “Florida Affordable Care Act of 1986”¹⁶ to help alleviate crucial problems related to housing shortages for individuals with very low,¹⁷ low,¹⁸ and moderate incomes,¹⁹ based on its findings that:

- Decent, safe, and sanitary housing for individuals of very low income, low income, and moderate income is a critical need in the state.
- New and rehabilitated housing must be provided at a cost affordable to such persons in order to alleviate this critical need.
- Special programs are needed to stimulate private enterprise to build and rehabilitate housing in order to help eradicate slum conditions and provide housing for very-low-income persons, low-income persons, and moderate-income persons as a matter of public purpose.
- Public-private partnerships are an essential means of bringing together resources to provide affordable housing.²⁰

¹⁰ The Florida Legislature expressed the intent to encourage homeless continuums of care to adopt the Housing First approach to ending homelessness for individuals and families in 2009. S. 420.6275(1), F.S.

¹¹ *Supra*, note 9. Those perceived as more difficult to serve include people with limited or no income, survivors of domestic violence, and those with substance abuse issues.

¹² *Supra*, note 5.

¹³ *Supra*, note 12 at 9.

¹⁴ *Id.*

¹⁵ *Supra*, note 9.

¹⁶ Ch. 86-192, Laws of Fla. created part VI of ch. 120, F.S.; Part VI was subsequently renamed the “Affordable Housing Planning and Community Assistance Act.” Ch. 92-317, Laws of Fla.

¹⁷ “Very-low-income persons” means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater. S. 420.0004(17), F.S.

¹⁸ “Low-income persons” means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the MSA or within the county in which the person or family resides, whichever is greater. S. 420.0004(11), F.S.

¹⁹ “Moderate-income persons” means one or more persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the MSA or within the county in which the household is located, whichever is greater. S. 420.0004(12), F.S.

State Office on Homelessness

In 2001, the Florida Legislature created the State Office on Homelessness (SOH) within the Department of Children and Families (DCF) to serve as the central point of contact within state government for homelessness. SOH is responsible for coordinating resources and programs across all levels of government and with private providers that serve the homeless. It also manages targeted state grants to support the implementation of local homeless service continuum of care plans.²¹

Council on Homelessness

Also in 2001, the Legislature created the inter-agency Council on Homelessness. The 17-member council develops recommendations on how to reduce homelessness statewide and advises the SOH.²²

Local Coalitions for the Homeless

DCF is required to establish local coalitions to plan, network, coordinate, and monitor the delivery of services to the homeless.²³ Groups and organizations provided the opportunity to participate in such coalitions include:

- Organizations and agencies providing mental health and substance abuse services.
- County health departments and community health centers.
- Organizations and agencies providing food, shelter, or other services targeted to the homeless.
- Local law enforcement agencies.
- Regional workforce boards.
- County and municipal governments.
- Local public housing authorities.
- Local school districts and local organizations and agencies serving specific subgroups of the homeless population such as veterans, victims of domestic violence, persons with HIV/AIDS, runaway youth.
- Local community-based care alliances.²⁴

Continuum of Care

The local coalition serves as the lead agency for the local homeless assistance continuum of care.²⁵ Section 420.621(1), F.S., defines “continuum of care” as the community components needed to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency; it includes action steps to end homelessness and prevent a return to homelessness.

A local homeless assistance continuum of care is a framework for a comprehensive and seamless array of emergency, transitional, and permanent housing, and services to address the various needs of the homeless and those at risk of homelessness.²⁶ The purpose of this framework is to help communities and regions envision, plan, and implement comprehensive and long-term solutions.²⁷

The local homeless assistance continuum of care planning effort is an ongoing process that addresses all subpopulations of the homeless. The development of a local continuum of care plan is a

²⁰ S. 420.6015, F.S.

²¹ S. 420.622(1), F.S.

²² *Id.*

²³ S. 420.623, F.S.

²⁴ *Id.*

²⁵ S. 420.624, F.S.

²⁶ *Id.*

²⁷ *Id.*

prerequisite to applying for federal housing grants through HUD and makes the community eligible to compete for the state's Challenge Grant and Homeless Housing Assistance Grant.²⁸

Challenge Grants

In 2001, the Florida established the Challenge Grant and authorized SOH to accept and administer moneys appropriated to it to provide Challenge Grants annually to designated lead agencies of homeless assistance continuums of care. SOH may award grants in an amount of up to \$500,000 per lead agency.²⁹ In order to qualify for a grant, the lead agency must develop and implement a local homeless assistance continuum of care plan for its designated area.³⁰

DCF must establish award levels for Challenge Grants specifying criteria to determine award levels and, after consultation with the Council on Homelessness, to specify the grant award levels in the notice of solicitation of grant applications.³¹ Any lead agency that receives a Challenge Grant must submit reports to DCF detailing its use of the grant funds.³²

The Challenge Grant was funded out of an appropriation to DCF through Fiscal Year 2012-13.³³ In 2014, the Challenge Grant was funded through the Florida Housing Finance Trust Fund,³⁴ and DCF awarded 15 of the 28 lead agencies Challenge Grant funding in 2014.³⁵

Homeless Housing Assistance Grants

SOH is authorized to accept and administer moneys appropriated to it to provide Homeless Housing Assistance Grants annually to lead agencies of local homeless assistance continuum of care.³⁶ The grants may not exceed \$750,000 per project and an applicant may spend a maximum of five percent of its funding on administrative costs; funds must be used to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons.³⁷

Florida Housing Finance Corporation

The Legislature created the Florida Housing Finance Agency in 1980.³⁸ The Legislature reconstituted it as a public corporation, the Florida Housing Finance Corporation (FHFC), in 1997.³⁹ The duties of the FHFC are to:

- encourage the investment of private capital in residential housing through the use of public financing to deal with the problem of disintermediation;⁴⁰
- stimulate the construction and rehabilitation of residential housing
- facilitate the purchase and sale of existing residential housing;

²⁸ Florida Department of Children and Families, *Lead Agencies*, <http://www.myflfamilies.com/service-programs/homelessness/lead-agencies> (last visited January 22, 2016).

²⁹ Section 420.622, F.S.

³⁰ *Id.*

³¹ Department of Children and Families, Agency Analysis of 2015 Senate Bill 1500 (Mar. 9, 2015) p. 2 (on file with Children, Families, and Seniors Subcommittee staff).

³² *Id.*

³³ *Id.*

³⁴ *Id.* For fiscal year 2015-2015, the Legislature provided a specific appropriation of \$3,800,000 to DCF for the grants and DEO received \$200,000 for training and technical assistance. S. 6, ch. 15-232, Laws of Fla.

³⁵ *Supra*, note 31

³⁶ Department of Economic Opportunity, Agency Analysis of 2015 House Bill 379 (Jan. 22, 2015.) p. 2 (on file with Children, Families, and Seniors Subcommittee staff).

³⁷ *Id.*

³⁸ Ch. 80-161, Laws of Fla.

³⁹ Ch. 97-167, Laws of Fla.; as a public corporation, FHFC was no longer a department of the executive branch of state government.

⁴⁰ Disintermediation is the elimination of intermediaries in a supply chain, or "cutting out the middlemen," in connection with a transaction or a series of transactions.

- provide construction and mortgage loans for projects; and
- make loans to and purchase mortgage loans from private lending institutions.⁴¹

FHFC provides affordable housing opportunities through a number of programs, including the State Apartment Incentive Loan (SAIL) and State Housing Initiatives Partnership (SHIP) programs.

State Apartment Incentive Loan (SAIL) Program

The Legislature created the SAIL program in 1988⁴² for the purpose of providing mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.⁴³

The SAIL program provides low-interest loans on a competitive basis to affordable housing developers each year.⁴⁴ This funding often serves to bridge the gap between the development's primary financing and the total cost of the development and is available to individuals, public entities, not-for-profit or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very low-income individuals and families.⁴⁵

The Florida Housing Finance Corporation (FHFC) has the authority to make SAIL loans that exceed 25 percent of the project cost under the following circumstances:

- When the developer is a not-for-profit organization or a public entity that is able to secure grants, donations of land, or contributions from other sources.
- When the project sets aside at least 80 percent of the total units over the life of the loan for farmworkers, commercial fishing workers, homeless persons, or persons with special needs.
- When the project serves extremely-low-income persons.⁴⁶

The FHFC has the authority to forgive indebtedness for a share of a SAIL loan attributable to the units in a project reserved for extremely-low-income persons.⁴⁷

SAIL program funds must be distributed in a manner that meets the need and demand for very low-income housing throughout the state. The need and demand must be determined by using the most recent statewide low-income rental housing market studies available. SAIL program funding is reserved for use within statutorily defined counties (large, medium, and small)⁴⁸ and for properties providing units for specified tenant groups.

During the first 6 months of loan or loan guarantee availability, program funds must be reserved for use by sponsors who provide the required housing set-aside for specified tenant groups. Currently, the reservation of funds within each notice of fund availability to the tenant groups is as follows:

- For commercial fishing workers, farmworkers, families and elderly persons the reservation of funds may not be less than 10 percent of the funds available at that time.
- For persons who are homeless the reservation of funds may not be less than 5 percent of the funds available at that time.

⁴¹ S. 420.502(7), F.S.

⁴² Ch. 88-376, Laws of Fla.

⁴³ S. 420.5087, F.S.

⁴⁴ For fiscal year 2015-2015, the Legislature provided a specific appropriation of \$48 million to fund the construction or rehabilitation of units through the sail program. S. 6, ch. 15-232, Laws of Fla.

⁴⁵ Florida Housing Finance Corporation, *State Apartment Incentive Loan Program*, available at:

http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0173 (last visited January 22, 2016).

⁴⁶ Section 420.507(22)(a) and (b), F.S.

⁴⁷ Section 420.507(22)(c), F.S.

⁴⁸ Section 420.5087(1), F.S., provides that funds must be allocated to the following categories of counties: counties that have a population of 845,000 or more ("large"); counties that have a population of more than 100,000 but less than 825,000 ("medium"); and counties that have a population of 100,000 or less ("small").

- For persons with special needs the reservation of funds may not be more than 10 percent of the funds available at that time.⁴⁹

The University of Florida's Shimberg Center for Housing Studies⁵⁰ prepares the rental housing market study for the Florida Finance Housing Corporation (FHFC).⁵¹ Below is a comparison of the actual need based on the most recent Rental Market Study compared to the current statutory reservation requirements for the specified tenant groups:

Specified Tenant Group	Actual Percentage of Total Households in Need in 2013	Current Statutory Reservation Requirements
Commercial fishing workers and farmworker households	4 percent	Not less than 10 percent
Persons who are homeless	10 percent	Not less than 5 percent
Persons with special needs	13 percent	Not more than 10 percent
Elder persons	20 percent	Not less than 10 percent
Families	53 percent	Not less than 10 percent

Currently, the statutory requirement to reserve funds for the commercial fishing worker and farmworker household tenant group significantly exceeds the actual housing need for this group. The current statutory "cap" on the reservation for the persons with special needs (no more than 10 percent) did not allow the program to address the actual housing need for this group (13 percent) during the first 6 months of loan or loan guarantee availability.

State Housing Initiatives Partnership (SHIP) Program

The Legislature created the SHIP program in 1992⁵² to provide funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very low, low, and moderate-income families and is administered by the Florida Housing Finance Corporation (FHFC). Funds for the SHIP program are derived from the collection of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust Fund and then allocated to local governments each month on a population-based formula.⁵³

As a component of the program, under section 420.606(3), F.S., the Department of Economic Opportunity (DEO) provides training and technical assistance to staff of state and local government entities, community-based organizations, and persons forming such organizations for the purpose of developing new housing and rehabilitating existing housing that is affordable for persons of very low income, low income, and moderate income. Funding is dependent upon a specific appropriation of the Legislature.⁵⁴ For Fiscal Year 2015-2016, the Legislature provided a specific appropriation of \$105 million to the SHIP program, and required that \$4 million of which be used to provide services to homeless persons.⁵⁵

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

⁴⁹ Section 420.5087, F.S.

⁵⁰ Shimberg Center for Housing Studies is statutorily required to develop and maintain statewide data on housing needs and production, provide technical assistance relating to real estate development and finance, operate an information clearinghouse on housing programs, and coordinate state housing initiatives with local government and federal programs. S. 420.0003(4)(c), F.S.

⁵¹ Shimberg Center for Housing Studies, University of Florida, *2013 Rental Market Study: Affordable Rental Housing Needs*, April 7, 2013, available at http://www.shimberg.ufl.edu/publications/Full_RMS_Needs.pdf (last visited January 22, 2016).

⁵² Ch. 92-317, Laws of Fla.

⁵³ S. 420.9073, F.S.

⁵⁴ Department of Economic Opportunity, Agency Analysis of 2015 Senate Bill 1500 (Mar. 9, 2015) p. 2 (on file with Children, Families, and Seniors Subcommittee staff).

⁵⁵ Ch. 15-232, Laws of Fla.

Housing Authorities). Section 421.02, F.S., finds that there is a shortage of safe or sanitary dwelling accommodations available at rents that persons of low income can afford. To provide such accommodations, housing authorities may acquire property to be used for, or in connection with, housing projects. Public money may only be spent to acquire private property for exclusively public uses and purposes, and the purposes must be determined to be 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,⁵⁶ 90 are special districts.⁵⁷

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.⁵⁸ The powers of each authority are vested in the commissioners and action may be taken upon a majority vote of the commissioners.⁵⁹ Housing authorities have the power to:

- Acquire, lease, and operate housing projects.
- Provide for the construction, reconstruction, improvement, alteration, or repair of any housing project.
- Lease or rent dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project.
- Invest funds held in reserves or sinking funds.⁶⁰

Section 421.27, F.S., governs the creation and powers of county housing authorities, which is similar to the creation of city housing authorities. 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.⁶¹

Housing Authorities' Use of Federal Aid

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 aid or cooperation of the federal government for any housing project by the housing authority.

Housing Authorities and Eminent Domain

A housing 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.⁶² Property already devoted to a public use may be acquired in like manner, so long as no real property belonging to the city, the county, the state, or any political subdivision is acquired without its consent.

Federal National Housing Trust Fund

⁵⁶ Florida Housing Data Clearing House, *Public Housing Agency Results*, http://flhousingdata.shimberg.ufl.edu/a/public_housing_agency?next=results&submit_submit.x=15&submit_submit.y=13&nid=1 (last visited January 22, 2016).

⁵⁷ Florida Department of Economic Opportunity, *Official List of Special Districts Online*, <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/websitelist.cfm> (last visited January 22, 2016).

⁵⁸ 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. S. 4231.05(1), F.S.

⁵⁹ S. 421.06, F.S.

⁶⁰ S. 421.08, F.S.

⁶¹ Section 421.28, F.S.

⁶² Section 421.12, F.S. An authority may exercise the power of eminent domain pursuant to ch. 73 and ch. 74, F.S.

In July 2008, the Housing and Economic Recovery Act was signed into law,⁶³ establishing a federal National Housing Trust Fund (NHTF), among other housing-related provisions. Although the NHTF has been established, a permanent funding stream has not been secured.⁶⁴ The goal of the NHTF is to provide ongoing, permanent, dedicated, and sufficient sources of revenue to build, rehabilitate, and preserve 1.5 million units of housing for the lowest-income families, including people experiencing homelessness, over the next 10 years. The NHTF particularly aims to increase and preserve the supply of rental housing that is affordable for extremely⁶⁵ and very low-income households, and increase homeownership opportunities for those households. To prevent funding for the NHTF from competing with existing U.S. Department of Housing and Urban Development (HUD) programs, this revenue is expected to be separate from the current appropriations process.⁶⁶

The U.S. Department of HUD will officially release the NHTF grant amount for each state in April, 2016.⁶⁷ Each state must adopt an Allocation Plan that has been developed through a public process involving citizen participation, and may include strategies to address homelessness. The funding must be used primarily to assist households with specified incomes and 90 percent of the funds must be used to preserve and increase the supply of rental housing.⁶⁸

Effect of the Bill

State Apartment Incentive Loan (SAIL) Program

The bill amends s. 420.507, F.S., relating to the powers of the FHFC, to give the FHFC the authority to forgive indebtedness for SAIL loans provided to create permanent rental housing units for homeless persons or persons who are residing in time-limited transitional housing or institutions as a result of a lack of permanent, affordable housing. Such developments must be:

- In counties or rural areas of counties that do not have existing units set aside for homeless persons.
- Supported by a local homeless assistance continuum of care (CoC) developed under s. 420.624, F.S.
- Be developed by nonprofit applicants.
- Be small properties as defined by FHFC rules.
- Be a project in the local housing assistance CoC plan recognized by the State Office on Homelessness.

The bill also authorizes the FHFC to make loans exceeding 25 percent of the cost for the projects described above.

The bill amends s. 420.507(35), F.S., to ban developers who have made material misrepresentations or engaged in fraudulent actions related to a program application from participating in FHFC's programs for any appropriate time period, including a permanent ban, rather than only up to two years.

The bill further amends s. 420.507, F.S., to require the FHFC to reserve a minimum of five percent of the annual appropriation from the State Housing Trust Fund for housing projects designed and

⁶³ Public Law 110-289.

⁶⁴ The National Alliance to End Homelessness. *National Housing Trust Fund*, http://www.endhomelessness.org/pages/national_housing_trust_fund (last visited January 22, 2016).

⁶⁵ "Extremely-low-income persons" means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 30 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater. S. 420.000(13), F.S.

⁶⁶ *Supra*, note 644.

⁶⁷ Florida Housing Finance Corporation, *SB 1534 Summary/Comment* (Jan. 13, 2016).

⁶⁸ *Id.*

constructed to serve persons with a disabling condition, as defined in s. 420.004, F.S.,⁶⁹ with first priority given to projects serving persons with a developmental disability, as defined in s. 393.063, F.S.⁷⁰ Funding will be provided as forgivable loans through a competitive solicitation process. Private nonprofit organizations whose primary mission includes serving persons with a disabling condition are eligible to apply for these funds. In evaluating proposals for these funds, the FHFC must consider:

- The extent to which funds from local and other sources will be used by the applicant to leverage these funds.
- Employment opportunities and supports that will be available to residents of the proposed housing.
- A plan for residents to effectively access community-based services, resources, and amenities.
- Partnerships with other supportive services agencies.

The bill amends s. 420.5087, F.S., relating to the State Apartment Incentive Loan (SAIL) Program, to change how funds are made available through a competitive solicitation process to better reflect projected needs and demand for affordable housing for the specified tenant groups and counties throughout the state based on population. At least 10 percent of SAIL program funds, as calculated on an annual basis, must be made available to each of the three categories of counties based on population: 825,000 or more persons; more than 100,000 but less than 825,000 persons; and 100,000 or less persons. Funds made available within each notice of fund availability may not be less than:

- ten percent each for families, homeless persons, persons with special needs, and elderly persons; and
- five percent for commercial fishing workers and farmworkers.

The bill requires that at least 10 percent of SAIL Program funds available must be reserved for four of the five tenant groups. At least 5 percent of available SAIL Program funds must be reserved for the commercial fishing workers and farmworkers tenant group.

Section 420.5087, F.S., is further amended to require rent controls on rental units financed through the SAIL program. Rent controls must be set at the income set-aside levels committed to by the project's sponsor at the applicable income limitations established by the Florida Housing Finance Corporation (FHFC) for federal low-income housing tax credits.

The bill also deletes s. 420.5087(10), F.S., which expires July 1, 2016.

Office on Homelessness

The bill amends s. 420.622, F.S., relating to the State Office on Homelessness (office) and the Council on Homelessness (council), to:

- Require the office, in coordination with other entities, to produce an inventory of state homeless programs instead of the currently required program and financial plan.
- Require the office to work with designated lead agencies for local homeless assistance continuums of care (CoC), and the council to develop a system and process for collecting data from lead agencies for the purpose of analyzing trends and assessing impacts in the statewide homeless delivery system. Any statewide homelessness survey and database system must comply with all state and federal statutory and regulatory confidentiality requirements.

⁶⁹ Section 420.0004(7), F.S., defines "disabling condition" to mean a diagnosable substance abuse disorder, serious mental illness, developmental disability, or chronic physical illness or disability, or the co-occurrence of two or more of these conditions, and a determination that the condition is: (a) expected to be of long-continued and indefinite duration; and (b) not expected to impair the ability of the person with special needs to live independently with appropriate supports.

⁷⁰ Section 393.603(9), F.S., defines "developmental disability" to mean a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

- Require, rather than allow, the office and the council to accept and administer moneys appropriated for annual Challenge Grants.
- Remove the requirement that award levels for Challenge Grants be based upon the total population within the continuum of care catchment area and reflect the differing degrees of homelessness in the catchment planning areas.
- Provide requirements related to expenditures of leveraged funds or resources. These funds may only be used for eligible activities committed on one project which have not been used as leverage or match for any other project.
- Require the office, in conjunction with the council, to establish performance measures and specific objectives to evaluate the performance and outcomes of lead agencies that receive Challenge Grant funds.
- Require that Challenge Grant funding distributed to the lead agencies be based on overall performance and achievement of specified objectives, including the number of persons or households that are no longer homeless, the rate of recidivism to homelessness, and the number of persons who obtain gainful employment.
- Clarify that the office may distribute funds to the local homeless assistance CoCs designated by the Department of Children and Families.

Continuums of Care and Rapid ReHousing

The bill amends s. 420.624, F.S., relating to the CoC, to require the office and the council to include a methodology for assessing performance and outcomes and data reporting in the CoC plan that communities seeking to implement a local homeless assistance continuum of care are encouraged to develop. The bill also requires Rapid ReHousing to be added to the components of a continuum of care plan.

The bill creates s. 420.6265, F.S., relating to Rapid ReHousing, to express legislative intent to encourage homeless continuums of care to adopt the Rapid ReHousing approach to preventing homelessness for individuals and families who do not require the intense level of support provided in the permanent supportive housing model. The bill also statutorily prescribes the Rapid Rehousing Methodology.

State Housing Initiatives Partnership Program

The bill amends s. 420.9071(26), F.S., relating to the definition of “rent subsidies,” to allow initial assistance for tenants, such as grants or loans for security and utility deposits.

The bill amends s. 420.9072, F.S., relating to the SHIP Program, to provide that a county or an eligible municipality may not spend its portion of the local housing distribution to provide ongoing rent subsidies with the exception of:

- Security and utility deposit assistance.
- Eviction prevention not to exceed rent for 6 months.
- A rent subsidy program for very-low-income households that have at least one adult who is a person with special needs as defined in s. 420.0004, F.S., or homeless as defined in s. 420.621, F.S. However, the period of rental assistance may not exceed 12 months.

The bill amends s. 420.9072, F.S., to extend the time period for the FHFC to review local housing assistance plans from 30 to 45 days after receipt.

Local Housing Assistance Plans

The bill amends s. 420.9075, F.S., relating to local housing assistance plans and partnerships, to:

- Add “Lead agencies of local homeless assistance continuums of care” as part of the partnership process to participate in the SHIP Program.
- Clarify monitoring requirements when local governments use SHIP program funds to assist rental housing developments.
- Add language to encourage eligible municipalities to develop a strategy for providing program funds to reduce homelessness.
- Provide that up to 25 percent of the SHIP Program funds made available in a county or municipality may be reserved for rental housing.
- Require a county or eligible municipality to include a description of efforts to reduce homelessness in the annual report that must be submitted to the FHFC.
- Authorize local governments to create regional partnerships and pool appropriated funds to address homeless housing needs identified in local housing assistance plans.
- Require local governments to use a minimum of 20 percent of SHIP program distributions to serve persons with special needs, with first priority given to serving persons with developmental disabilities, with an emphasis on home modifications, including technological enhancements and devices, which will allow homeowners to remain independent in their own homes and maintain their homeownership.

Adoption of Affordable Housing Incentive Strategies

The bill amends s. 420.9076, F.S., to revise the composition of local Affordable Housing Advisory Committees. Currently, the committees must have 11 members with each member representing a specific stakeholder group (for example, one citizen actively engaged in affordable housing residential construction, one citizen actively engaged as a for-profit affordable housing provider, etc.). The bill reduces the number of committee members to eight and requires the committee to consist of one representative from at least six of the 11 specified stakeholder categories. The section is further amended to delete language no longer needed to address issues with committee representation and to correct cross references.

National Housing Trust Fund (NHTF)

The bill creates s. 420.9089, F.S., relating to the NHTF, to express legislative intent to encourage the state entity that administers funds from the NHTF to propose an allocation plan that includes strategies to reduce homelessness and the risk of homelessness in the state. The FHFC is the state entity designated by the Governor to administer funds made available to the state from the NHTF.

Public Housing Authorities

The bill amends s. 421.04, F.S., to prohibit housing authorities, regardless of when they were created, from applying to the federal government to acquire through the power of eminent domain any projects, units, or vouchers of another established housing authority, irrespective of each housing authority’s area of operation.

The bill amends s. 421.05, F.S., to provide that housing authorities are exempt from the provisions of s. 215.425, F.S., which addresses extra compensation, bonuses, and severance pay.

The bill amends s. 421.091, F.S., to exempt housing authorities from reporting requirements of s. 218.32, F.S., which requires each local government to submit an annual financial report for the previous fiscal year to the Department of Financial Services. Housing authorities would still be responsible for submitting a biennial financial accounting and audit, made by a certified public accountant, to the federal government, but would not be required to provide that report to the governing body of the housing authority or the Auditor General.

Miscellaneous

The bill amends s. 420.503(36), F.S., by changing the definition of “service provider” for purposes of Part V of ch. 420, F.S., relating to the Florida Housing Finance Corporation (FHFC). The definition is updated so that the bid threshold for contracts executed between the FHFC and service providers conforms to the purchasing categories established in s. 287.017, F.S.

The bill amends s. 420.511, F.S., relating to the FHFC’s strategic business plan, long-range program plan, annual report, and audited financial statements. The bill removes language that requires the FHFC’s business plan and annual report to recognize different fiscal periods. This language is no longer necessary as it is well established that the FHFC’s fiscal year is the calendar year.

The bill amends s. 420.9071 (16) and (25) of section 420.9071, F.S., to correct cross references.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

While the bill does not provide an appropriation it does modify the SAIL program to decrease the unit reservation requirements for commercial fishing workers and farmworkers from a minimum of ten percent to a minimum of five percent, and increase the unit reservation requirement for persons who are homeless from five percent to ten percent. To the extent the legislature appropriates future funds for the SAIL program, these modifications will not impact the development of affordable housing, only the number of required affordable housing units that must be set aside for a specific population to utilize.

Additionally, the bill removes the SAIL program cap on spending for persons with special needs and the elderly, and replaces it with a SAIL funding floor of not less than ten percent for each. To the extent the legislature appropriates future funds for the SAIL program, any increase in affordable housing funding provided for these two populations above ten percent would see a corresponding decrease in funding provided for the other populations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

While the bill does not contain an appropriation, it alters the criteria by which programs addressing affordable housing and homelessness are funded and how those programs may spend grants and other state funds. For example, the bill adds rapid re-housing as a component for local homeless assistance continuum of care plans. To the extent a local government provides funding for rapid re-housing programs other program areas may see a corresponding decrease in funding.

The bill broadens the definition of “rent subsidy” under the SHIP program to include initial assistance to tenants, such as grants or loans for security and utility deposits, which had been previously disallowed. Additionally, the bill clarifies the instances in which local governments participating in the SHIP program may provide ongoing rental assistance; they may only expend local housing distribution to provide ongoing rent subsidies for security and utility deposit assistance; eviction prevention not to exceed 6 months of rent; or a rent subsidy program for very-

low-income families with at least one person with special needs or one individual experiencing homelessness, for a period not exceed 12 months. To the extent a local government increases their funding for rent subsidy programs other program areas may see a corresponding decrease in funding.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

While the bill does not contain an appropriation, it alters the criteria by which programs addressing homelessness are funded and how those programs may spend grants and other state funds. For example, the change in the performance measures set by SOH for lead agencies that receive grant funds could affect the funding that lead agencies receive depending on the lead agency's performance and whether or not it achieve specified objectives.