

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 Appropriations Committee

BILL: SB 1534

INTRODUCER: Senator Simmons

SUBJECT: Housing Assistance

DATE: February 24, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Favorable
2.	Gusky	Miller	ATD	Recommend: Fav/CS
3.	Gusky	Kynoch	AP	Pre-meeting

I. Summary:

SB 1534 makes numerous changes to 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 change the reservation requirements for the specified tenant groups to reflect projected need.
- 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, including:
 - Requiring that expenditures of leveraged funds or resources are permitted only for eligible activities committed on one project which have not been used as leverage or match for another project;
 - Removing 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; and
 - Requiring any 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.
- Expresses 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 and requires Rapid ReHousing to be added to the components of a continuum of care plan.
- Provides exceptions to the restriction on counties and eligible municipalities related to expenditures of State Housing Initiatives Partnership (SHIP) Program distributions for ongoing rent subsidies.
- Provides that up to 25 percent of the SHIP Program funds made available in a county or municipality may be reserved for rental housing.

- 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 statewide homelessness.
- Makes several changes to laws relating to housing authorities, which include:
 - Prohibiting housing authorities, regardless of when they were created, from applying to the federal government to acquire through the exercise of the power of eminent domain any projects, units, or vouchers of another established housing authority;
 - Exempting housing authorities from the provisions of s. 215.425, F.S., which addresses extra compensation, bonuses and severance pay; and
 - Removing the requirement that housing authorities must submit a copy of the biennial financial reports submitted to the federal government to the governing body and the Auditor General.

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 has an effective date of July 1, 2016.

II. Present Situation:

Housing for Individuals with Lower Incomes

In 1986¹ the Legislature found 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; and
- Public-private partnerships are an essential means of bringing together resources to provide affordable housing.²

As a result of these findings, the Legislature determined that legislation was urgently needed to alleviate crucial problems related to housing shortages for individuals with very low,³ low⁴ and

¹ Chapter 86-192, Laws of Fla.

² Section 420.6015, F.S.

³ “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.

⁴ “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 metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater.

moderate⁵ incomes. In 1986, part VI of ch. 420, F.S., was titled as the “Florida Affordable Care Act of 1986”⁶ and programs and funding mechanisms were created over the years to help remedy low-income housing issues.

State Apartment Incentive Loan (SAIL) Program

The SAIL program was created by the Legislature in 1988⁷ for the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.⁸

The SAIL program provides low-interest loans on a competitive basis to affordable housing developers each year. This funding often serves to bridge the gap between the primary financing and the total cost of the development. SAIL program funds are available to individuals, public entities, and 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.⁹

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. The SAIL program funding is reserved for use within statutorily defined counties (large, medium, and small)¹⁰ and for properties providing units for specified tenant groups. The University of Florida’s Shimberg Center for Housing Studies prepares the rental housing market study for the Florida Finance Housing Corporation (FHFC).¹¹ Below is a comparison of the actual need based on the 2013 Rental Market Study compared to the current statutory reservation requirements for the specified tenant groups.

⁵ “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 metropolitan statistical area (MSA) or within the county in which the household is located, whichever is greater.

⁶ Chapter 86-192, Laws of Fla., Part VI, was subsequently renamed the “Affordable Housing Planning and Community Assistance Act.” Chapter 92-317, Laws of Fla.

⁷ Chapter 88-376, Laws of Florida.

⁸ Section 420.5087, F.S.

⁹ Florida Housing Finance Corporation, *State Apartment Incentive Loan Program*, available at: http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0173 (last visited Jan. 21, 2016).

¹⁰ 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”).

¹¹ Shimberg Center for Housing Studies, University of Florida, *2013 Rental Market Study: Affordable Rental Housing Needs*, April 7, 2013.

Specified Tenant Group	Actual Percentage of Total Households in Need	Current Statutory Reservation Requirements ¹²
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

During the first 6 months of loan or loan guarantee availability, SAIL program funds are required to be reserved for use by sponsors who provide the required housing set-aside for specified tenant groups. Under current law, 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) does 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.

Funding for the SAIL Program is subject to an annual appropriation.¹³

State Office on Homelessness

In 2001, the Florida Legislature created the State Office on Homelessness (office) within the Department of Children and Families (DCF) to serve as a central point of contact within state government on homelessness. The office 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.¹⁴

Council on Homelessness

The inter-agency Council on Homelessness (council) was also created in 2001. The 17-member council is charged with developing recommendations on how to reduce homelessness statewide and advising the State Office on Homelessness.¹⁵

Local Coalitions for the Homeless

The DCF is required to establish local coalitions to plan, network, coordinate, and monitor the delivery of services to the homeless.¹⁶ 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;

¹² Section 420.5087, F.S.

¹³ *Id.*

¹⁴ Section 420.622(1), F.S.

¹⁵ *Id.*

¹⁶ Section 420.623, F.S.

- Local law enforcement agencies;
- Local workforce development boards;
- County and municipal governments;
- Local public housing authorities;
- Local school districts;
- Local organizations and agencies serving specific subgroups of the homeless population such as veterans, victims of domestic violence, persons with HIV/AIDS, and runaway youth; and
- Local community-based care alliances.¹⁷

Continuum of Care

A local coalition serves as the lead agency for the local homeless assistance continuum of care (CoC).¹⁸ A local CoC 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.¹⁹ The purpose of a CoC is to help communities or regions envision, plan, and implement comprehensive and long-term solutions.²⁰

The DCF interacts with the state's 28 CoCs through the office, which serves as the state's central point of contact on homelessness. The office has designated local entities to serve as lead agencies for local planning efforts to create homeless assistance CoC systems. The office has made these designations in consultation with the local homeless coalitions and the Florida offices of the federal Department of Housing and Urban Development (HUD).

The CoC planning effort is an ongoing process that addresses all subpopulations of the homeless. The development of a local CoC plan is a prerequisite to applying for federal housing grants through HUD. The plan also makes the community eligible to compete for the state's Challenge Grants and Homeless Housing Assistance Grants.²¹

Challenge Grants

The office is authorized to accept and administer moneys appropriated to it, for the purpose of providing Challenge Grants annually to designated lead agencies of homeless assistance CoCs.²² The office may award grants in an amount of up to \$500,000 per lead agency.²³ A lead agency may spend a maximum of 8 percent of its funding on administrative costs. To qualify for the grant, a lead agency must develop and implement a local homeless assistance continuum of care plan for its designated area.²⁴

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 420.624, F.S.

²⁰ *Id.*

²¹ Florida Department of Children and Families, *Lead Agencies*, available at: <http://www.myflfamilies.com/service-programs/homelessness/lead-agencies> (last visited Jan. 21, 2016).

²² "Section 420.621(1), F.S., defines "Continuum of Care" to mean 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."

²³ Section 420.622, F.S.

²⁴ *Id.*

Pursuant to s. 420.624, F.S., the DCF provides funding for local homeless assistance CoC, which is a framework for providing an array of emergency, transitional, and permanent housing, and services to address the various needs of homeless persons and persons at risk of becoming homeless. There is no statutorily identified funding source for this program.²⁵

Pursuant to s. 420.606(3), F.S., the 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 very-low-income persons, low-income persons, and moderate-income persons. There is no statutorily identified funding source for this program.²⁶

Homeless Housing Assistance Grants

The office is authorized to accept and administer moneys appropriated to it to provide Homeless Housing Assistance Grants annually to lead agencies of local homeless assistance CoC. The grants may not exceed \$750,000 per project and an applicant may spend a maximum of 5 percent of its funding on administrative costs. The grant funds must be used to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons. The funds available for the eligible grant activities may be appropriated, received from donations, gifts, or from any public or private source.²⁷

Rapid ReHousing

Rapid ReHousing is a model for providing housing for individuals and families who are homeless. The model places a priority on moving a family or individual experiencing homelessness into permanent housing as quickly as possible, hopefully within 30 days of a client becoming homeless and entering a program. While originally focused primarily on people experiencing homelessness due to short-term financial crises, programs across the country have begun to assist individuals and families who are traditionally perceived as more difficult to serve. This includes people with limited or no income, survivors of domestic violence, and those with substance abuse issues. Although the duration of financial assistance may vary, many programs find that, on average, 4 to 6 months of financial assistance is sufficient to stably re-house a household.²⁸

Since federal funding for rapid re-housing first became available in 2008, a number of communities, including Palm Beach County, Florida, that prioritized rapid re-housing as a response to homelessness have seen decreases in the amount of time that households spend homeless, less recidivism, and improved permanent housing outcomes relative to other available interventions.²⁹

There are three core components of rapid re-housing: housing identification, rent and move-in assistance (financial), and rapid re-housing case management and services. While all three

²⁵ Department of Economic Opportunity, *House Bill 379 Analysis*, (January 22, 2015).

²⁶ *Id.*

²⁷ *Id.*

²⁸ National Alliance to End Homelessness, *Rapid Re-Housing: A History and Core Components*, (2014), available at: <http://www.endhomelessness.org/library/entry/rapid-re-housing-a-history-and-core-components> (last visited Jan. 21, 2016).

²⁹ *Id.*

components are present and available in effective rapid re-housing programs, there are instances where the components are provided by different entities or agencies, or where a household does not utilize all three.³⁰ A key element of rapid re-housing is the “Housing First” philosophy, which offers housing without preconditions such as employment, income, lack of a criminal background, or sobriety. If issues such as these need to be addressed, the household can address them most effectively once they are in housing.³¹

State Housing Initiatives Partnership (SHIP) Program

The SHIP Program was created in 1992³² 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). A dedicated funding source for this program was established by the passage of the 1992 William E. Sadowski Affordable Housing Act. The SHIP Program is funded through a statutory distribution of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust Fund. Subject to specific appropriation, funds are distributed quarterly to local governments participating in the program under an established formula.³³

National Housing Trust Fund

In July 2008, the federal Housing and Economic Recovery Act was signed into law,³⁴ establishing a National Housing Trust Fund (NHTF or trust fund), among other housing-related provisions. Although the National Housing Trust Fund has been established, a permanent funding stream has not been secured.³⁵

The goal of the trust fund 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 extremely³⁶ and very-low-income households, and increase homeownership opportunities for those households. To prevent funding for the NHTF from competing with existing HUD programs, this revenue is expected to be generated separately from the current federal appropriations process.³⁷

³⁰ *Id.*

³¹ 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. See s. 420.6275, F.S.

³² Chapter 92-317, Laws of Fla.

³³ Section 420.9073, F.S.

³⁴ Public Law 110-289.

³⁵ The National Alliance to End Homelessness, *National Housing Trust Fund*, available at: http://www.endhomelessness.org/pages/national_housing_trust_fund (last visited Jan. 21, 2016).

³⁶ “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. The FHFC may adjust this amount annually by rule to provide that in lower-income counties, extremely-low income may exceed 30 percent of area median income and that in higher-income counties, extremely-low income may be less than 30 percent of area median income.

³⁷ The National Alliance to End Homelessness, *National Housing Trust Fund*, available at: http://www.endhomelessness.org/pages/national_housing_trust_fund (last visited Jan. 21, 2016).

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.³⁸ 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.

III. Effect of Proposed Changes:

Section 1 amends s. 420.5087, F.S., relating to the State Apartment Incentive Loan (SAIL) Program, to change the reservation requirements for three of the five tenant groups. The set-aside for the persons who are in the homeless tenant group is increased from not less than 5 percent to at least 10 percent. The cap of not “more than 10 percent” for the persons with special needs tenant group is replaced with at least 10 percent. 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 2 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 establish a task force to make recommendations related to the implementation of a statewide Homeless Management Information System (HMIS). The task force must make its recommendations to the council by December 31, 2016.
- 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 grant funds.
- Require any 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.

Section 3 amends s. 420.624, F.S., relating to the local homeless assistance continuum of care (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

³⁸ Section 421.12, F.S. An authority may exercise the power of eminent domain pursuant to ch. 73 and ch. 74, F.S.

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.

Section 4 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.³⁹ The bill also statutorily prescribes the Rapid Rehousing Methodology.

Section 5 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.

Section 6 amends s. 420.9072, F.S., relating to the State Housing Initiatives Partnership (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 meet specified qualifications.

Section 7 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.
- 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.

Section 8 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 statewide homelessness. The Florida Housing Finance Corporation (FHFC) is the state entity designated by the Governor to administer funds made available to the state from the National Housing Trust Fund (NHTF). The U.S. Department of Housing and Urban Development (HUD) will officially release the NHTF grant amount for each state in April 2016.⁴⁰ Each state must adopt an Allocation Plan that has been developed through a public process involving citizen participation, and may include strategies to address

³⁹ Permanent supportive housing is for individuals who need long-term housing assistance with supportive services in order to stay housed. Individuals and families living in supportive housing often have long histories of homelessness and face persistent obstacles to maintaining housing, such as a serious mental illness, a substance use disorder, or a chronic medical problem. Many supportive housing tenants face more than one of these serious conditions. See United States Interagency Council on Homelessness, *Permanent Supportive Housing*, available at <https://www.usich.gov/solutions/housing/permanent-supportive-housing> (last visited Jan. 21, 2016).

⁴⁰ Florida Housing Finance Corporation, *SB 1534 Summary/Comment* (Jan. 13, 2016)(on file with the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development).

homelessness.⁴¹ 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.⁴²

Section 9 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.

Section 10 amends s. 421.05, F.S., to provide that housing authorities are exempt from the provisions of s. 215.425, F.S. Section 215.425, F.S., addresses extra compensation, bonuses, and severance pay.

Section 11 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.

Section 12 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

While programs that serve homeless persons may receive additional resources, the private sector impact of SB 1534 is indeterminate.

⁴¹ *Id.*

⁴² *Id.*

C. Government Sector Impact:

The bill has an indeterminate, but expected to be insignificant, fiscal impact on state and local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 420.5087, 420.622, 420.624, 420.9071, 420.9072, 420.9075, 421.04, 421.05, and 421.091.

This bill creates the following sections of the Florida Statutes: 420.6265 and 420.9089.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.