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 Committee on Appropriations

BILL:	CS/CS/CS/SB 998
INTRODUCER:	Appropriations Committee; Infrastructure and Security Committee; Community Affairs Committee; and Senators Hutson and Hooper
SUBJECT:	Housing
DATE:	March 5, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Ryon	CA	**Fav/CS**
2.	Proctor	Miller	IS	**Fav/CS**
3.	Babin/Hrdlicka	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 998 addresses several housing issues related to development zoning; the provision of affordable housing; and regulation, ownership, and tenancy related to mobile homes, mobile home parks, and related homeowners' associations.

With respect to zoning and affordable housing, the bill includes provisions that:

- Notwithstanding other laws and regulations, authorize local governments to approve the development of affordable housing on any parcel zoned for residential, commercial, or industrial use;
- Allow a local government to adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use;
- Require the reporting of impact fee charges data within the annual financial audit report submitted to the Department of Financial Services;
- Require reporting on annual expenditures for affordable housing in reports of economic status information to the Office of Economic and Demographic Research.
- Authorize the Florida Housing Finance Corporation (FHFC) to preclude applicants and affiliates of applicants from participation in FHFC programs for certain actions and provide procedures for such preclusion.
- Require the evaluation of additional local government contribution criteria within applications submitted for State Apartment Incentive Loan Program funding;

- Transition the "pilot" features of a workforce housing program into the Community Workforce Housing Loan Program, administered by the FHFC;
- Establish biannual regional workshops for locally elected officials serving on affordable housing advisory committees to identify and share best affordable housing practices;
- Add data reporting within a State Housing Initiatives Partnership Program participant's submissions to the FHFC on affordable housing applications approved and denied; and
- Permit the FHFC to prioritize a portion of the State Apartment Incentive Loan Program funds set aside for persons with special needs, to provide funding for the development of newly constructed permanent rental housing on a campus that provides housing for persons in foster care or persons aging out of foster care.

With respect to housing issues related to mobile homes, the bill includes provisions that:

- Allow a mobile home dealer to display a model of a manufactured home;
- Exempt a recreational vehicle dealer from the garage liability insurance requirements if it only sells park trailers;
- Clarify provisions exempting mobile home park owners from the jurisdiction of the Public Service Commission when the park owners provide water and wastewater;
- Revise when a mobile home park owner can require a mobile home owner to make improvements;
- Require a mobile home park owner to amend the prospectus and increase shared facilities when adding lots;
- Create a strict prohibition to prevent the park owner from passing on to mobile home owners taxes in an amount in excess of what is actually paid to the tax collector;
- Allow the mobile home park owner to give notice of lot rental increases for multiple anniversary dates at the same time;
- Permit a mobile home park damaged or destroyed by wind, water, or other natural force to be rebuilt on the same site with the same density as was approved, permitted, and built before being damaged or destroyed;
- Allow a mobile home buyer to assume the seller's prospectus or be offered a new prospectus by the park owner;
- Require mobile home owner to receive written permission from park owner before exterior modifications or additions;
- Require the mobile home park owner to notify the Department of Business and Professional Regulation, who in turn notifies the Florida Mobile Home Relocation Company, when tenants will be evicted due to a change in land use;
- Revise numerous rights, obligations, and record retention requirements of a mobile home park homeowners' association, including how elections are conducted; and
- Require certain disputes between the homeowners' association and a member to be resolved via mandatory binding arbitration at the Department of Business and Professional Regulation.

The Department of Business and Professional Regulation and the FHFC will incur costs to implement the provisions of the bill.

The bill has an effective date of July 1, 2020.

II. Present Situation:

The various features of the bill principally address housing issues affecting local government development zoning, impact fees, and affordable housing in chs. 125, 163, 166, 196, 420, and 423, F.S., and statutes governing mobile homes within chs. 320, 367, and 723, F.S. The Present Situation within these general topic groupings is included in the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Bill Sections Addressing Development Zoning, Impact Fees, and Affordable Housing

Zoning for Affordable Housing (Sections 1 and 5)

Present Situation

Comprehensive Plans and Land Use Regulation

The Growth Management Act requires every city and county to create and implement a comprehensive plan to guide future development. A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments.

- The land use element of the plan designates proposed future general distribution, location, and extent of the uses of land. Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.[1]
- The housing element of the plan sets forth guidelines and strategies for the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, provision of adequate sites for future housing, and distribution of housing for a range of incomes and types.[2]

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment to receive public hearings, the first held by the local planning board.[3] The local government must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies, including the Department of Economic Opportunity (DEO), the relevant Regional Planning Council, and adjacent local governments that request to participate in the review process.[4] The process for approving comprehensive plan amendments is bifurcated. Most plan amendments are placed into the Expedited State Review Process, while plan amendments relating to large-scale developments are placed into the State Coordinated Review Process.[5]

[1] Section 163.3177(6)(a), F.S.
[2] Section 163. 3177(6)(f), F.S.
[3] Sections 163.3174(4)(a) and 163.3184, F.S.
[4] Section 163.3184, F.S.
[5] *See* ss. 163.3184 and 380.06, F.S.

Local governments regulate aspects of land development by enacting ordinances that address local zoning, rezoning, subdivision, building construction, landscaping, tree protection, or sign regulations or any other regulations controlling the development of land.[6]

Sections 125.66 and 166.041, F.S., outline regular and emergency ordinance adoption procedures for counties and municipalities. Ordinances or resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category or ordinances or resolutions initiated by the local government that change the actual zoning map designation of a parcel or parcels of land must follow additional enhanced procedures and requirements.[7]

Affordable Housing

Affordable housing is defined in terms of household income. Housing is considered affordable when monthly rent or mortgage payments including taxes and insurance do not exceed 30 percent of the household income.[8] Resident eligibility for Florida's state and federally funded housing programs is typically governed by area median income (AMI) levels, published annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area. The following are standard household income level definitions and their relationship to the 2019 Florida state median of $65,100 for a family of four (as family size increases or decreases, the income range also increases or decreases):[9]

- Extremely low income – earning up to 30 percent AMI (at or below $19,550);[10]
- Very low income – earning from 30.01 to 50 percent AMI ($19,551 to $32,550);[11]
- Low income – earning from 50.01 to 80 percent AMI ($32,551 to $52,100); [12] and
- Moderate income – earning from 80.01 to 120 percent of AMI ($52,100 to $78,120).[13]

Statutory Guidance on County and Municipal Affordable Housing

In 2001, the Legislature created ss. 125.01055[14] and 166.04151, F.S.,[15] respectively authorizing a county or municipality, notwithstanding any other provision of law, to "adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances."

[6] *See* ss. 163.3164 and 163.3213, F.S. Pursuant to s. 163.3213, F.S., substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan.
[7] *See* sections 125.66(4) and 166.041(3), F.S.
[8] Section 420.0004(3), F.S. Public housing, commonly referred to as Section 8 Housing, is provided by local housing agencies (HAs) for low-income residents. Funding for HAs is provided directly from HUD.
[9] U.S. Department of Housing and Urban Development, *Income Limits*, *Access Individual Income Limits Areas – Click Here for FY 2019 IL Documentation*, April 24, 2019, available at https://www.huduser.gov/portal/datasets/il.html#2019 (last visited February 21, 2020).
[10] Section 420.0004(9), F.S.
[11] Section 420.0004(17), F.S.
[12] Section 420.0004(11), F.S.
[13] Section 420.0004(12), F.S.
[14] Section 16, ch. 2001-252, Laws of Fla.
[15] Section 15, ch. 2001-252, Laws of Fla.

"Inclusionary housing ordinances (often called inclusionary "zoning" ordinances) are land use regulations that require affordable housing units to be provided in conjunction with the development of market rate units."[16] The intent of the ordinances is to increase the production of affordable housing in general and also in specific geographic areas that might otherwise not include affordable housing.[17]

Effect of Proposed Changes

Sections 1 and 5 amend ss. 125.01055 and 166.04151, F.S., to – notwithstanding any other law or local ordinance or regulation to the contrary – authorize the board of a county commission and the governing body of a municipality, respectively, to approve the development of affordable housing on any parcel zoned for residential, commercial, or industrial use. This will allow the development of affordable housing on such parcels without regard to the locality's comprehensive plan.

Local Government Reporting (Sections 2, 4, and 6)

Present Situation

Local Government Impact Fees

Impact fees are amounts imposed by local governments to fund local infrastructure required to provide for increased local services needs caused by new growth.[18] Adopted by ordinance of a county, municipality, or special district, impact fees must meet the minimum criteria, including that the local government adopting the impact fee must account for and report fee collections and expenditures.[19]

The types of impact fees, amounts, and timing of collection are within the discretion of the local government authorities choosing to impose the fees. Impact fees vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee.

The 2017 Affordable Housing Workgroup[20] was charged with providing recommendations for, among other components, a review of land use for affordable housing developments.[21] The review included fee impacts of fees such as impact fees, exactions, mitigation fees, and development fees.[22] To provide context to workgroup members, the Florida Housing Finance Corporation queried local State Housing Initiatives Partnership administrators regarding impact fee calculations and waivers in their locales. Based on responses from approximately two-thirds of those surveyed, nearly 25 percent did not currently assess any impact fees. For the remaining

[16] *Ross, J.* and *Outka, U.*, The Florida Housing Coalition, *Inclusionary Housing: A Challenge Worth Taking*, available at https://www.flhousing.org/wp-content/uploads/2012/05/Inclusionary-Housing-A-Challenge-Worth-Taking.pdf (last visited February 21, 2020).
[17] *Id*.
[18] Section 163.31801(2), F.S.
[19] Section 163.31801(3), F.S.
[20] Chapter 2017-71, Laws of Fla.
[21] Section 46, ch. 2017-71, Laws of Fla.
[22] Florida Housing Finance Corporation, *Affordable Housing Workgroup Final Report 2017*, December 19, 2017, p. 23, available at https://issuu.com/fhfc/docs/ahwg-report_2017-web (last visited February 21, 2018).

cities and counties that did impose impact fees, the fees were calculated using a combination of methodologies, including by square footage, number of bedrooms, geographic location, resident status as a senior citizen, or as a flat fee. Approximately 30 percent of the reporting entities indicated the existence of mechanisms to waive fees in part or whole for affordable housing development.[23]

Local Government Financial and Economic Status Reporting

Counties, district school boards, charter schools, charter technical career centers, and certain municipalities and special districts must submit annual financial audit to the Auditor General no later than 9 months of the close of the entity's fiscal year.[24] Additionally, a local government, including a special district, is required to submit an annual financial report to the Department of Financial Services no later than 9 months of the close of the local government's fiscal year.[25] Local government entities complete and electronically submit their annual financial reports to the Department of Financial Services Bureau of Local Government via the bureau's web-based system called Local Government Electronic Reporting (LOGER).[26]

In addition to the above local government financial reporting, ch. 2019-56, Laws of Fla., amended ss. 129.03 and 166.241, F.S., to require counties and municipalities respectively to report certain economic status information to the Office of Economic and Demographic Research. This includes information on government spending and debt per resident, median income, average local government employee salary, percentage of budget spent on employee salaries and benefits, and the number of taxing districts.

Effect of Proposed Changes

Section 4 amends s. 163.31801, F.S., to require each county, municipality, and special district to include, in their annual financial reports, the following information pertaining to impact fees imposed:

- The specific purpose of each impact fee, including the specific infrastructure need to be met, such as transportation, parks, water, sewer, and schools.
- The impact fee schedule policy describing the method of calculating impact fees, such as flat fees, tiered scales based on number of bedrooms, and tiered scales based on square footage.
- The amount assessed for each purpose and type of dwelling.
- The total amount of impact fees charged by type of dwelling.
- Each exception and waiver provided for construction or development of affordable housing.

Section 2 amends s. 129.03, F.S., and **section 6** amends s. 166.241, F.S., to require county and municipalities to include annual expenditures for affordable housing in their reports to the Office of Economic and Demographic Research. The information must include expenditures for financing, acquisition, construction, reconstruction, and rehabilitation and must indicate the funding sources (federal, state, local, or other). The information must be included in the report of economic status information annually beginning October 15, 2020.

[23] *Id*. at pp. 25-27.
[24] Section 218.39, F.S.
[25] Section 218.32, F.S.
[26] LOGER is available at https://apps.fldfs.com/LocalGov/Reports/ (last visited Feb. 21, 2020).

Accessory Dwelling Units (Section 3)

Present Situation

An accessory dwelling unity (ADU) is an ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area existing either within the same structure, or on the same lot, as the primary dwelling unit.[27] Section 163.31771, F.S., finds that encouraging local governments to permit ADUs to increase the availability of affordable rentals serves a public purpose. A local government may adopt an ordinance allowing ADUs in any area zoned for single-family residential use based upon a finding that there is a shortage of affordable rentals in its jurisdiction.[28]

Each ADU allowed by an ordinance under s. 163.31771, F.S., counts towards the affordable housing component of the housing element in the local government's comprehensive plan.[29] An application for a building permit to construct such ADUs must include an affidavit which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons.[30]

In 2019, the Florida Housing Coalition published the *Accessory Dwelling Unit Guidebook*.[31] The stated intent of the guidebook is to address the challenges and benefits a community might face as it considers allowing the implementation of ADUs and the guidebook presents a range of alternatives for local governments and other stakeholders to consider and evaluate. Among other data points, the guidebook found that:

- Of Florida's 67 counties, 16 did not address any ADU in their land development codes; and
- Of the 15 most populous cities in Florida, 11 of them explicitly allow ADUs in single-family districts.[32]

Effect of Proposed Changes

Section 3 amends s. 163.31771, F.S., to allow a local government to adopt an ordinance to allow ADUs in any area zoned for single family residential use. The ordinance would not be conditioned upon a finding that there is a shortage of affordable rentals within the local jurisdiction.

[27] Section 163.31771(2)(a), F.S. ADUs are sometimes referred to as "granny flats" to denote their use in accommodating the housing needs of aging parents. ADUs have the potential to make the primary home more affordable by creating rental income for the homeowner, while also providing affordable rental housing.
[28] Section 163.31771(3), F.S.
[29] Section 163.31771(5), F.S.
[30] Section 163.31771(4), F.S. The parameters defining the various income designations are specified in s 420.0004, F.S.
[31] *See* Florida Housing Coalition, *Accessory Dwelling Unit Guidebook*, May 2019, available at https://www.flhousing.org/wp-content/uploads/2019/08/ADU-Guidebook.pdf (last visited February 13, 2020).
[32] *Id*. at 19.

State Apartment Incentive Loan (SAIL) Program: Local Government Contributions (Section 13)

Present Situation

The SAIL program provides low-interest loans on a competitive basis to affordable housing developers as gap financing for the construction or substantial rehabilitation of multifamily affordable housing developments.[33] Applicant may include individuals, public entities, nonprofit organizations, or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very-low-income individuals and families. In most cases, the SAIL loan cannot exceed 25 percent of the total development cost and can be used in conjunction with other state and federal programs.

The FHFC administers the SAIL program and is required to establish a review committee for the competitive evaluation and selection of applications submitted. The evaluation criteria include local government contributions and local government comprehensive planning and activities that promote affordable housing.[34]

Effect of Proposed Changes

Section 13 amends s. 420.5087(6), F.S., add components to the evaluation criteria related to local government in the review and selection process of applications. The additional components for evaluation are local government policies that promote access to public transportation, reduce the need for on-site parking, and expedite permits for affordable housing projects.

Community Workforce Housing Innovation Pilot Program (Section 14)

Present Situation

Established by ch. 2006-69, Laws of Fla., the Community Workforce Housing Innovation Pilot Program (CWHIP) was created for the purpose of providing affordable rental and home ownership community workforce housing for essential services personnel with medium incomes in high-cost and high-growth counties. Designed to use regulatory incentives and state and local funds to promote local public-private partnerships and to leverage government and private sources, the FHFC administered the program in 2006 and 2007.[35]

The CWHIP targeted households earning higher incomes than traditionally served through other affordable housing programs to create homeowner or rental housing for persons such as teachers, firefighters, healthcare providers, and others as defined by local governments. Households earning up to 140 percent of area median income (AMI) could be served through the program with that provision rising up to 150 percent of AMI in the Florida Keys.[36]

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[33] *See* s. 420.5087, F.S., and Florida Housing Finance Corporation, *State Apartment Incentive Loan, Background*, for information cited in this section, *available at* http://www.floridahousing.org/programs/developers-multifamily-programs/state-apartment-incentive-loan (last visited February 22, 2020).
[34] Section 420.5087(6)(c), F.S.
[35] Section 420.5095(2), F.S. *See also* Specific Appropriation 1658A, s. 5, ch. 2006-25, Laws of Fla.; and Specific Appropriation 1694, s. 5, 2007-72, Laws of Fla.
[36] Section 420.5095(3)(a), F.S.

CWHIP provided priority funding consideration to projects in counties where the disparity between the AMI and the median sales price for a single family home was greatest. Priority funding consideration was specified where:[37]

- The local jurisdiction established local incentives such as expedited reviews of development orders and permits and supported development near transportation hubs;
- Financial strategies like tax increment financing were utilized;
- Projects were innovative, including mixed-use elements; and
- Projects set aside at least 80 percent of units for workforce housing and at least 50 percent for essential services personnel.

The CWHIP loans were awarded with a 1 to 3 percent interest rate and could be forgiven where long-term affordability was provided and where at least 80 percent of the units were set aside for workforce housing and at least 50 percent of the units were set aside for essential services.[38]

The FHFC administered two rounds of funding for CWHIP: $50 million in October of 2006 and $62.4 million in December of 2007.[39]

Effect of Proposed Changes

Section 14 amends s. 420.5095, F.S., to transition the "pilot" features of a workforce housing program into the Community Workforce Housing Loan Program, administered by the FHFC. Households earning up to 80 percent of AMI will be served through the program with that provision rising up to 120 percent of AMI in the Florida Keys. The FHFC is required to establish a loan application process pursuant to the SAIL program provisions under s. 420.5087, F.S., and all application requirements of the former CWHIP program are repealed.

Priority funding consideration is specified where:

- The local jurisdiction establishes local incentives such as expedited reviews of development orders and permits and supported development near transportation hubs; and
- Financial strategies like tax increment financing are utilized.

The FHFC is required to award loans with a 1 percent interest rate for a term not to exceed 15 years. The FHFC is authorized to adopt rules to implement this program.

Funding Transitional Housing for Persons Aging out of Foster Care (Section 13)

Present Situation

Affordable Housing Funding for Special Needs Populations

For purposes of affordable housing, s. 420.0004(13), F.S., defines a person with special needs as:

- An adult requiring independent living services in order to maintain housing or develop independent living skills and who has a disabling condition.

[37] Section 420.5095(8), F.S.
[38] Section 420.5095(11), F.S.
[39] *See* Florida Housing Finance Corporation, *2007 Annual Report*, at p. 3, and *2008 Annual Report*, at p. 11, available at http://www.floridahousing.org/docs/default-source/data-docs-and-reports/annual-reports/2007AnnualReport.pdf and http://www.floridahousing.org/docs/default-source/data-docs-and-reports/annual-reports/2008AnnualReport_CDfile.pdf (both sites last visited February 22, 2020).

- A young adult formerly in foster care who is eligible for services under the Road-to-Independence Program.[40]
- A survivor of domestic violence.
- A person receiving benefits under the Social Security Disability Insurance program or the Supplemental Security Income program or from veterans' disability benefits.

According to the statewide 2019 Rental Market Study, the estimates of rental households with persons with special needs were 2,574 youth aging out of foster care, 7,836 survivors of domestic violence, and 104,273 cost burdened renter households receiving disability-related Social Security, SSI, and veterans' benefits statewide.[41]

FHFC is authorized to make SAIL program funds available during the first six months of SAIL funding availability for recipients who set aside at least 20 percent of the units in the project for certain tenant groups, including persons with special needs. Within each notice of fund availability, at least 10 percent must be for the tenant groups.

Section 420.507(48), F.S., requires the FHFC to reserve up to 5 percent of certain annual allocations[42] for high-priority affordable housing projects for veterans and their families and for other special needs populations. The FHFC must reserve an additional 5 percent of each allocation for affordable housing projects that target persons who have a disabling condition.[43] Each local government participating in the State Housing Initiatives Partnership program must use a minimum of 20 percent of its local housing distribution to serve persons with special needs.[44]

Services and Support for Youth Aging Out of Foster Care

Sections 39.6251 and 409.1451, F.S., require the Department of Children and Families to administer an array of independent living services to eligible young adults ranging in ages 18-22 (not yet 23), including supports in making the transition to self-sufficiency.[45]

Extended Foster Care (EFC) provides eligible young adults the option of remaining in foster care until the age of 21 or until the age of 22 if they have a disability. EFC is a voluntary program that requires the young adult to agree to participate in school, work, or a work training program in accordance with federal and state guidelines. Exceptions and accommodations are made for young adults with a documented disability.

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[40] *See* s. 409.1451, F.S.
[41] Shimberg Center for Housing Studies, University of Florida, *2019 Rental Market Study*, May 2019, available at http://www.shimberg.ufl.edu/publications/RMS_2019.pdf (last visited February 13, 2020). The Rental Market Study defines "cost burdened" to mean the household is paying at least 40 percent of income toward gross rent.
[42] These allocations include those for low-income housing tax credits, nontaxable revenue bonds, and SAIL funds appropriated by the Legislature.
[43] Section 420.0004(7), F.S., defines "disabling condition."
[44] Section 420.9075(5)(d), F.S.
[45] Information in this section related to independent living services and extended foster care is drawn from the Department of Children and Families, *Independent Living Services Annual Report*, January 31, 2019, available at https://www.myflfamilies.com/service-programs/child-welfare/docs/2019LMRs/Independent%20Living%20Services%202018%20Annual%20Report.pdf (last visited February 22, 2020).

Effect of Proposed Changes

Section 13 amends s. 420.5087(10), F.S., to authorize the FHFC to prioritize a portion of the SAIL program funds set aside under s. 420.5087(3)(d), F.S., for persons with special needs, to provide funding for the development of newly constructed permanent rental housing on a campus that provides housing for persons in foster care or persons aging out of foster care under the Road-to-Independence Program. The housing must promote and facilitate access to community-based supportive, educational, and employment services and resources that assist persons aging out of foster care to successfully transition to independent living and adulthood. The FHFC must consult with the Department of Children and Families to create minimum criteria for such housing.

Affordable Housing Workshops for Locally Elected Officials Utilizing the Catalyst and the State Housing Initiatives Partnership (SHIP) Programs (Sections 15 and 17)

Present Situation

Affordable Housing Catalyst Program

Section 420.531, F.S., directs the FHFC to operate the Affordable Housing Catalyst Program (Catalyst Program) to provide specialized technical support to local governments and community-based organizations to implement the HOME Investment Partnership Program, the SHIP program, and other affordable housing programs.[46] The FHFC currently contracts with the Florida Housing Coalition to provide Catalyst Program training and technical assistance.[47]

The Florida Housing Coalition's technical assistance team consists of a geographically dispersed network of personnel who provide on-site and telephone or e-mail technical assistance as well as training through workshops and webinars.[48] This technical assistance targets local governments and nonprofit organizations and includes:[49]

- Leveraging program dollars with other public and private funding sources;
- Working effectively with lending institutions;
- Implementing regulatory reform;
- Training for boards of directors;
- Implementing rehabilitation and emergency repair programs;
- Assisting with the creation of fiscal and program tracking systems; and
- Meeting compliance requirements of state and federally funded housing programs.

[46] To the maximum extent feasible, the entity to provide the necessary expertise must be recognized by the Internal Revenue Service as a nonprofit tax-exempt organization. It must have a primary mission of providing training and technical assistance on affordable housing, an ability to provide the services statewide, and a proven track record of providing the services under the Catalyst Program.

[47] *Contract for Affordable Housing Catalyst Services between Florida Housing Finance Corporation and the Florida Housing Coalition, Inc*., July 1, 2019, available at https://www.floridahousing.org/docs/default-source/legal/contracts/2019/014-2019---the-florida-housing-coalition-inc---affordable-housing-catalyst-program-services.pdf?sfvrsn=c09dea7b_2 (last visited February 22, 2020).

[48] Florida Housing Coalition's *2019/2020 Catalyst Training Schedule* is *available at* https://www.floridahousing.org/docs/default-source/programs/special-programs/catalyst/training-schedule-catalyst-2019-2020.pdf?sfvrsn=2. A link to the Florida Housing Coalition's *Work Shop and Webinar Calendar* is available at *https://www.flhousing.org/events/list/?tribe_paged=2&tribe_event_display=list* (both sites last visited February 13, 2020).

[49] *See* s. 420.531(1), F.S.

State Housing Initiatives Partnership (SHIP) Program

Administered by the FHFC, the SHIP program provides funds to all 67 counties and 52 Community Development Block Grant entitlement cities on a population-based formula to finance and preserve affordable housing based on locally adopted housing plans.[50] The program targets very-low-, low-, and moderate-income families

Subject to specific appropriation, funds are distributed quarterly to local governments participating in the program.[51] Funds are expended per each local government's adopted Local Housing Assistance Plan (LHAP), which details the housing strategies it will use.[52] Local governments submit their LHAPs to the FHFC for review to ensure that they meet the broad statutory guidelines and the requirements of the program rules. The FHFC must approve an LHAP before a local government may receive the SHIP funding.

SHIP Incentive Strategies and Advisory Committee

Within 12 months of adopting a LHAP, each participating local government must amend the plan to include local housing incentive strategies.[53] The strategies must:

- Assure that permits for affordable housing projects are expedited;
- Establish an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing; and
- Include a schedule for implementing the incentive strategies.[54]

Local governments must appoint members to an Affordable Housing Advisory Committee (AHAC) to triennially review the established policies and procedures, ordinances, land development regulations, and adopted local government comprehensive plan.[55] The AHAC is comprised of local citizens representing a range of affordable housing stakeholders.[56] At a minimum, each AHAC must submit a report to the local governing body on certain affordable housing incentives including:

- The processing of approvals of development orders or permits for affordable housing.
- The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.
- The allowance of flexibility in densities for affordable housing.
- The allowance of affordable accessory residential units in residential zoning districts.
- The reduction of parking and setback requirements for affordable housing.

Local governments that receive the minimum allocation under the SHIP[57] must perform the initial incentives review but may elect to not perform the subsequent triennial reviews.

[50] *See* ss. 420.907-420.9089, F.S.
[51] Section 420.9073, F.S.
[52] Section 420.9075, F.S.
[53] Section 420.9076(1), F.S.
[54] Section 420.9071(16), F.S.
[55] Section 420.9076(4), F.S.
[56] Section 420.9076(2), F.S.
[57] Pursuant to s. 420.9073(3), F.S., the minimum local housing distribution is $350,000.

Effect of Proposed Changes

Section 15 amends s. 420.531, F.S., to establish biannual regional workshops for locally elected officials serving on AHACs. The Florida Housing Coalition[58] will administer and conduct the workshops with the intent of facilitating peer-to-peer identification and sharing of affordable housing best practices. Workshops may be conducted through teleconferencing or other technological means. Annual reports summarizing each region's deliberations and recommendations, as well as local official attendance records, must be submitted to the President of the Senate, the Speaker of the House, and the FHFC by March 31 of the following year.

The bill also amends the Catalyst Program to include SAIL among the programs listed for which the Florida Housing Coalition may provide technical support.

Section 17 amends s. 420.9076, F.S., to modify requirements of the AHACs. Effective October 1, 2020, at least one locally elected official from each participating SHIP county or municipality must serve on the advisory committee. This official, or a locally elected designee, must attend the biannual regional workshops on affordable housing best practices. If a locally elected official fails to attend three consecutive regional workshops, the FHFC may withhold the participating SHIP entity's funds pending the person's attendance at the next regularly scheduled biannual meeting.

The bill also requires annual, rather than triennial, AHAC reviews of local policies and provisions affecting affordable housing. The annual report of advisory committee reviews and recommendations must be submitted to the local governing body and to the Florida Housing Coalition. In addition, the report must include information about all allowable fee waivers provided for affordable housing, instead of the just the modification of impact-fee requirements.

Annual SHIP Entity Reporting Submissions to Florida Housing (Section 16)

Present Situation

Section 420.9075(10), F.S., requires each local government participating in the SHIP to annually submit a report of its affordable housing programs and accomplishments to the FHFC. The local government's chief elected official or his or her designee must certify the report as accurate and complete.[59] Among the many items included in the report are:

- The number of households served by income category, age, family size, and race, and data regarding any special needs populations;
- The number of units and the average cost of producing units under each local housing assistance strategy;
- By income category, the number of mortgages made, the average mortgage amount, and the rate of default; and
- A description of the status of implementation of each local housing incentive strategy.[60]

[58] The entity that provides the statewide training and technical assistance under s. 420.531, F.S.
[59] Section 420.9075(11), F.S., requires report to be made available for public inspection and comment prior to certifying and transmitting it to the FHFC.
[60] Section 420.9075(10), F.S.

If, as a review of the report, the FHFC determines that the local government has a pattern of violation of the criteria for its LHAP or that an eligible sponsor or eligible person has violated the applicable award conditions, then the FHFC reports the violation to its compliance monitoring agent and the Governor. If a violation is deemed to have occurred, the distribution of program funds to the local government must be suspended until the violation is corrected.[61]

Effect of Proposed Changes

Section 16 amends s. 420.9075(10), F.S., to require the annual report by the local government to include data on the number of affordable housing applications submitted, approved, and denied.

Material Misrepresentations or Fraudulent Actions by Applicants (Section 12)

Present Situation

Section 420.507(35), F.S., authorizes the FHFC to preclude any applicant or affiliate of an applicant from further participation in any FHFC program if that applicant or affiliate made a material misrepresentation or engaged in fraudulent action in connection with any application for a program.

If the FHFC board of directors determines that an applicant or any principal, financial beneficiary, or affiliate of the applicant has made a material misrepresentation or engaged in fraudulent actions in connection with any application for a FHFC program, then an applicant will be ineligible for funding or allocation in any program administered by the corporation.[62]

There is a rebuttable presumption that an applicant has engaged in fraudulent actions if the applicant or its principal, financial beneficiary, or affiliate has:[63]

- Been convicted of fraud, theft, or misappropriation of funds.
- Been excluded from federal or Florida procurement programs for any reason.
- Been convicted of a felony in connection with any FHFC program.
- Offered or given consideration with respect to a local contribution, other than consideration to provide affordable housing.

The period of time that an applicant may be ineligible may be for a specific period of time or permanent in nature. To establish the duration of the ineligibility, the board must consider the facts and circumstances, inclusive of the applicant's compliance history, the type of misrepresentation or fraud committed, and the degree of harm to the FHFC programs that has been or may be done.[64]

The FHFC must serve an administrative complaint affording reasonable notice to an applicant of the facts or conduct that warrants the intended action, specifies a proposed duration of ineligibility, and advises the applicant of its right to request an administrative hearing pursuant to

[61] Section 420.9075(13), F.S.
[62] Rule 67-48.004(2), F.A.C.
[63] *Id*. at (2)(a).
[64] *Id*. at (2)(c).

ss. 120.569 and 120.57, F.S.[65] Upon service of the complaint, all pending transactions under any FHFC program involving the applicant or its principal, financial beneficiary, or affiliate are suspended until a final order is issued or the administrative complaint is dismissed.[66]

Effect of Proposed Changes

Section 12 creates s. 420.518, F.S., to preclude any applicant or affiliate of an applicant from participation in any FHFC program under certain conditions. An applicant or affiliate can be precluded if the applicant or affiliate has:

- Made a material misrepresentation or engaged in fraudulent actions in connection with any FHFC program.
- Been convicted or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to:
  - Financing, construction, or management of affordable housing; or
  - Fraudulent procurement of state or federal funds.
- Been excluded from any Florida procurement program.
- Offered or given consideration with respect to a local contribution, other than consideration to provide affordable housing.
- Demonstrated a pattern of noncompliance and a failure to correct any such noncompliance after notice from the FHFC in the construction, operation, or management of one or more developments funded through a FHFC program.

Upon a determination by the board of directors of the FHFC to preclude an applicant or affiliate from participation in any FHFC program, the board may issue an order taking certain actions:

- Preclude the applicant or affiliate from applying for funding from any FHFC program for a specified period of time.
- Revoke any funding previously awarded for any development for which construction or rehabilitation has not yet commenced.

The period of time that an applicant or affiliate may be precluded may be for a specific period of time or permanent in nature. To establish the duration of the ineligibility, the board must consider the facts and circumstances, inclusive of the applicant's compliance history, the type of action for which the applicant or affiliate is being precluded, and the degree of harm to the FHFC programs that has been or may be done.

Before an order by the FHFC board becomes final, an administrative complaint must be served on the applicant, its affiliate, or its registered agent. The complaint must provide notification of the findings of the board, the intended action, and the opportunity to request an administrative hearing pursuant to ss. 120.569 and 120.57, F.S.

Upon the service of the complaint, any funding, allocation of federal housing credits, credit underwriting procedures, or application review for any development for which construction or

[65] Section 120.569, F.S., provides the procedures under the Administrative Procedures Act which apply to all proceedings in which the substantial interests of a party are determined by an agency. Section 120.57, F.S., provides additional procedures, such as whenever there is a disputed issue of material facts. Chapter 120, F.S., applies to the FHFC, pursuant to s. 420.504(2), F.S.

[66] Rule 67-40.004(2)(b), F.A.C.

rehabilitation has not yet occurred is suspended. The suspension is effective from the date on which the complaint is served until an order issued by the FHFC related to the complaint becomes final.

Bill Sections Addressing Mobile Homes

Chapter 723, F.S., the "Florida Mobile Home Act" addresses the unique relationship between a mobile home owner and a mobile home park owner.[67] The provisions in ch. 723, F.S., apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has ten or more lots offered for rent or lease.[68] Mobile home parks are regulated by the Division of Condominiums, Timeshares, and Mobile Homes within the Department of Business and Professional Regulation.[69]

Further, mobile home dealers/brokers, installers, and manufacturers are required to register with the Department of Highway Safety and Motor Vehicles (DHSMV).[70]

A mobile home is a structure, transportable in one or more sections, that has a body width of 8 feet or more and which is built on an integral chassis, is designed to be used as a dwelling when connected to utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.[71] Similarly, under ch. 723, F.S., a mobile home is a residential structure, transportable in one or more sections, that has a body width of 8 feet or more and a length of over 35 feet with the hitch, which is built on an integral chassis, is designed to be used as a dwelling when connected to utilities, includes the plumbing, heating, air-conditioning, and electrical systems, and was not originally sold as a recreational vehicle.

Mobile Home Dealer Display Requirements (Section 7)

Present Situation

A mobile home dealer must hold a license issued by the DHSMV.[72] The term "dealer" generally means "any person engaged in the business of buying, selling, or dealing in mobile homes or offering or displaying mobile homes for sale."[73]

The place of business of the mobile home dealer must be at a permanent location, not a tent or a temporary stand or other temporary quarters. The location of the place of business must afford sufficient unoccupied space to store all mobile homes offered and displayed for sale.[74]

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[67] Section 723.004, F.S.
[68] Section 723.002(1), F.S.
[69] Section 723.003(12), F.S. defines a "mobile home park" or "park" as a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential
[70] *See* Department of Highway Safety and Motor Vehciles, *Motor Vehicles, Tags & Titles – Dealers, Installers, Manufacturers, Distributors, and Importers*, available at https://www.flhsmv.gov/motor-vehicles-tags-titles/dealers-installers-manufacturers-distributors-importers/ (last visited February 22, 2020).
[71] Section 320.1(2)(a), F.S., which provides such definition as used in Florida Statutes.
[72] Section 320.77(2), F.S.
[73] *See* s. 320.77(1)(b), F.S.
[74] Section 320.77(3)(h), F.S.

Effect of Proposed Changes

Section 7 amends s. 320.77, F.S., to remove the requirement that a place of business of a mobile home dealer must afford sufficient unoccupied space to store all mobile homes offered and displayed for sale. Under the bill, the place of business of a mobile home dealer must have sufficient space to display a manufactured home as a model home.

Recreational Vehicle Dealer Requirements (Section 8)

Present Situation

A recreational vehicle dealer must hold a license issued by the DHSMV.[75] The term "dealer" generally means any person engaged in the business of buying, selling, or dealing in recreational vehicles or offering or displaying recreational vehicles for sale.[76]

A recreational vehicle is a type of motor vehicle primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.[77] One type of a recreational vehicle is known as a "park trailer," which is a transportable unit that has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.[78]

A recreational vehicle dealer must be insured under a garage liability insurance policy that includes a minimum $25,000 combined single-limit liability coverage, including bodily injury and property damage protection, and $10,000 personal injury protection.[79]

Effect of Proposed Changes

Section 8 amends s. 320.771, F.S., to exempt a recreational vehicle dealer from the requirement to be insured under a garage liability insurance policy, if the dealer sells only park trailers.

Repair and Remodeling Codes for Mobile and Manufactured Homes (Sections 9 and 10)

Present Situation

A manufactured home is a mobile home fabricated on or after June 15, 1976, in an offsite manufacturing facility for installation or assembly at the building site, with each section bearing a seal certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standard Act.[80]

Sections 320.8232(2), F.S., provides that the provisions of the repair and remodeling code for mobile homes must ensure safe and livable housing and must not be more stringent than those standards required to be met in the manufacture of mobile homes. The provisions of the code must include, but are not limited to, standards for structural adequacy, plumbing, heating,

[75] Section 320.771(2), F.S.
[76] Section 320.771(1)(a), F.S.
[77] *See* s. 320.01(1)(b), F.S.
[78] Section 320.01(1)(b)7., F.S.
[79] Section 320.771(3)(j), F.S.
[80] Section 320.01(2)(b), F.S.

electrical systems, and fire and life safety. Section 320.822(2), F.S., uses the term "Repair and Remodeling Code" and not the term "Mobile Home Repair and Remodeling Code."

Rule 15C-2.0081, F.A.C, provides more specificity for the Mobile/Manufactured Home Repair and Remodeling Code. The rule provides guidelines for structure additions, anchoring, repair, and remodeling; electrical repair and replacement; and plumbing repair and replacement.

Effect of Proposed Changes

Section 9 amends s. 320.822, F.S., to revise the term "Mobile Home Repair and Remodeling Code" to the "Mobile and Manufactured Home Repair and Remodeling Code."

Section 10 amends s. 320.8232, F.S., by changing the reference to the "Repair and Remodel Code" to the "Mobile and Manufactured Home Repair and Remodeling Code" which has been adopted by rule by the DHSMV. The bill also requires all repair and remodeling of mobile and manufactured homes be done in accordance with the DHSMV rules.

Jurisdiction of the Public Service Commission: Mobile Home Parks/Subdivisions and Water and Wastewater Service (Section 11)

Present Situation

In various areas throughout Florida, water and wastewater services are provided through privately-owned and operated water and wastewater companies. These privately-owned companies are referred to as "investor-owned utilities."[81] If the utility is operating within a single Florida county, the county has the option to regulate rates and service or allow the Public Service Commission (PSC) to regulate those utilities.[82] Currently, the PSC has jurisdiction over 150 water and wastewater IOUs in 38 of 67 counties in Florida.[83]

The remaining water and wastewater customers in the state are not subject to PSC regulation and are served either by IOUs in non-jurisdictional counties, by wells and septic tanks, or by systems owned, operated, managed, or controlled by governmental authorities or by statutorily exempt utilities (such as municipal utilities, cooperatives, and non-profits).[84]

Section 367.022(5), F.S., exempts from regulation by the PSC "landlords providing [water or wastewater] service to their tenants without specific compensation for the service." Section 367.022(9), F.S., also exempts from regulation any person who resells water service to his or her tenants or to individually metered residents for a fee that does not exceed the actual purchase price of the water plus the actual cost of meter reading and billing, not to exceed 9 percent of the actual cost of service.

[81] IOUs can range in size from very small systems, owned by individuals as sole proprietorships and serving only a few dozen customers in a small neighborhood, to systems owned by large interstate corporations that serve tens of thousands of customers in multiple Florida counties.
[82] Section 367.171, F.S.
[83] Public Service Commission, *2019 Facts & Figures of the Florida Utility Industry*, at p. 31, June 2019, available at http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Factsandfigures/June%202019.pdf (last visited February 13, 2020).
[84] *See* s. 367.022, F.S.

A mobile home park is land used by providing lots or spaces rented or leased for the placement of mobile homes for primarily residential use. In a mobile home subdivision, the individual lots are owned by the lot owners and a portion of the subdivision or the amenities exclusively serving the subdivision are owned by the subdivision developer.[85]

Effect of Proposed Changes

Section 11 amends s. 367.022, F.S., to exempt from regulation by the PSC the owner of a mobile home park operating both as a mobile home park and a mobile home subdivision who provides service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation. The bill also amends the current exemption for any person who sells water service to his or her tenants or individual metered residents to provide that the fee charged cannot exceed the actual purchase price of the water *and wastewater service*.

Prospectus or Offering Circular and Rental Agreements (Sections 18 and 19)

Present Situation

Prospectus

The prospectus in a mobile home park is the document that governs the landlord-tenant relationship between the park owner and the mobile home owner.[86] The prospectus or offering circular, together with its attached exhibits, is a disclosure document intended to afford protection to homeowners and prospective homeowners in a mobile home park. The purpose of the document is to disclose the representations of the mobile home park owner concerning the operations of the mobile home park.[87]

The prospectus must include the specified information including a description of the mobile home park property, the number of lots in each section, the maximum number of lots that will use shared facilities, and a description of the recreational and other common facilities to be used by mobile home owners.[88]

Section 723.012(7), F.S., requires the prospectus to include a description of all improvements, whether temporary or permanent, which are required to be installed by the mobile home owner as a condition of his or her occupancy in the park.

If the tenancy was in existence on June 4, 1984,[89] the mobile home park owner must officer a prospectus or offering circular offered that contains the same terms and conditions as rental agreements offered to all other mobile home owners residing in the park on the same date. However, the prospectus or offering circular may include rent variations based upon lot location and size. The prospectus or offering circular may not require any mobile home owner to install any permanent improvements.[90]

[85] Section 723.003(13) and (14), F.S.
[86] Section 723.012, F.S.
[87] Section 723.011(3), F.S.
[88] Section 723.012(4) and (5), F.S.
[89] The effective date of ch. 723, F.S. *See* ch. 84-80, Laws of Fla.
[90] Section 723.011(4), F.S.

In a mobile home park containing 26 or more lots, the park owner must file a prospectus with the Division of Condominiums, Timeshares, and Mobile Homes for approval.[91] The park owner must provide a copy of the prospectus with exhibits to each prospective lessee prior to the execution of the lot rental agreement or at the time of occupancy, whichever occurs first.[92] By rule of the division, the prospectus distributed to a home owner or prospective home owner is binding for the length of the tenancy, including any assumptions of that tenancy, and may not be changed except in certain specified circumstances.[93]

Effect of Proposed Changes

Section 18 amends s. 723.011, F.S., to provide that a mobile home owner may be required to install permanent improvements to the mobile home as disclosed in the prospectus, with respect to a tenancy in existence on June 4, 1984.

Section 19 amends s. 723.012, F.S., to provide that, if a mobile home park owner intends to include additional property and mobile home lots and to increase the number of lots that will use the shared facilities of the park, the mobile home park owner must amend the prospectus to disclose such additions. If the number of mobile home lots in the park increases by more than 15 percent of the total number of lots in the original prospectus, the mobile home park owner must reasonably offset the impact of the additional lots by increasing the shared facilities. The amendment to the prospectus must include a reasonable timeframe for providing the required additional shared facilities and the costs and expenses necessary to increase the shared facilities may not be passed on or passed through to the existing mobile home owners.

Mobile Home Owner's General Obligations (Section 20)

Present Situation

Section 723.023, F.S., sets forth the mobile home owner's general obligations. A mobile home owner shall at all times:

- Comply with building, housing, and health codes, including compliance with all building permits and construction requirements for construction on the mobile home and lot. The home owner is responsible for all fines imposed by the local government for noncompliance with any local codes.
- Keep the mobile home lot that he or she occupies clean, neat, and sanitary, and maintained in compliance with all local codes.
- Comply with properly promulgated park rules and regulations and require other persons on the premises with his or her consent to comply with such rules and to conduct themselves, and other persons on the premises with his or her consent, in a manner that does not unreasonably disturb other residents of the park or constitute a breach of the peace.

[91] Section 723.011(1)(a), F.S.
[92] Sections 723.011(2), F.S.
[93] *See* Rule 61B-31.001, F.A.C.

Effect of Proposed Changes

Section 20 amends s. 723.023, F.S., to require the mobile home owner to remove any debris and other property of any kind that is left on the mobile home lot when vacating the premises.

The bill also requires the mobile home owner to receive written approval from the mobile home park owner before making any exterior modification or addition to the home. The bill grants this new authority to the mobile home park owner without conditioning this new power on the prospectus granting the mobile home park owner such right or on the prospectus being amended upon agreement of the park owner and the mobile home owner to include such power.

Mobile Home Park Rent Increases (Sections 21 and 22)

Present Situation

The rental agreement for a mobile home park lot must contain the lot rental amount and the services included. Generally, lot rental agreements must be for a 1-year term and the lot rental amount may not be increased during the term of the agreement.[94] However, the mobile home park owner may pass on ad valorem property taxes and other fees and assessments as long as this is done as a matter of custom between the mobile home park owner and the mobile home owner or as authorized by law. A park owner is deemed to have disclosed the passing on of ad valorem property taxes and non-ad valorem assessments if these were disclosed as a factor for increasing the lot rental amount in the prospectus or rental agreement.[95]

A mobile home park owner may increase the lot rental amount by providing at least a 90-day notice, generally before the renewal date of the renewal agreement.[96] The park owner must give the notice to the affected mobile home owners and the board of directors of the homeowners' association, if one has been formed.[97]

Lot rental increases may not be arbitrary or discriminatory between similarly situated tenants in the park.[98] The notice must identify all other affected homeowners, which may be by lot number, name, group, or phase. If the affected homeowners are not identified by name, the park owner must provide the names and addresses upon request.[99]

A committee of no more than five people, designated by a majority of the owners or by the board of directors of the homeowners' association (if formed), and the park owner must meet at least 60 days before the effective date of a rent increase to discuss the reasons for the increase.[100] Current law does not specify that the five members of the committee must be mobile home owners in the park. At the meeting, the park owner or subdivision developer must in good faith disclose and explain all material factors resulting in the decision to increase the lot rental amount and, with specificity, how those factors justify the increase proposed.[101]

[94] Section 723.031(4) and (5), F.S.
[95] *Id.*
[96] Section 723.031(5)(d), F.S.
[97] Section 723.037(1), F.S.
[98] Section 723.031(5), F.S.
[99] Section 723.037(1), F.S.
[100] Section 723.037(4)(a), F.S.
[101] Section 723.037(4)(b), F.S.

If the committee disagrees with the lot rental increase reasoning, then the committee and the park owner may continue to meet. However, if subsequent meetings are unsuccessful, within 30 days of the last scheduled meeting, the mobile home owners may petition the Division of Condominiums, Timeshares, and Mobile Homes to initiate mediation.[102] If the mediation does not successfully resolve the dispute, then the parties may file an action in circuit court to challenge the lot rental increase as unreasonable.[103]

Effect of Proposed Changes

Section 21 amends s. 723.031, F.S., to add that that a park owner is deemed to have disclosed the passing on of ad property taxes and non-ad valorem assessments if these were disclosed as a *separate charge* for increasing the lot rental amount in the prospectus or rental agreement

Additionally, the bill prohibits a park owner from charging or collecting from the mobile home owners any sum of ad valorem taxes or non-ad valorem tax charges in an amount in excess of the sums remitted by the park owner to the tax collector.

Section 22 amends s. 723.037, F.S., to permit the park owner to give notice of all rent increases for multiple anniversary dates in the same 90-day notice. To conform to this change, the bill requires the committee designated to consider the lot rental increases must address all lot rental amount increases that are specified in the notice of lot rental amount increase, regardless of the effective date of the increase.

The bill also provides that the requirement of the park owner to provide, upon request, the identifying information for homeowners affected by a rent increase does not authorize the park owner to release the names, addresses, or other private information of the homeowners to the association or any other person for any other purpose.

Replacing Mobile Homes in a Mobile Home Park (Section 23)

Present Situation

Except as expressly preempted by the requirements of the DHSMV, a mobile home owner or the park owner is authorized to "site any size new or used mobile home and appurtenances on a mobile home lot in accordance with the lot sizes, separation and setback distances, and other requirements in effect at the time of the approval of the mobile home park."[104]

Effect of Proposed Changes

Section 23 amends s. 723.041, F.S., to allow a mobile home park that is damaged or destroyed due to wind, water, or other natural force to be rebuilt on the same site with the same density as was approved, permitted, and built before being damaged or destroyed. The bill also provides that the regulation of the uniform fire safety standards established under s. 633.206, F.S., are not limited by s. 723.041, F.S. However, s. 723.041, F.S., supersedes any other density, separation,

[102] Section 723.037(5)(a), F.S.
[103] Section 723.0381, F.S.
[104] Section 723.041(4), F.S.

setback, or lot size regulation adopted after initial permitting and construction of the mobile home park.

Park Owner Disclosures Prior to Residence (Section 24)

Present Situation

A mobile home park owner or developer may not require a person, as a precondition to occupancy in the mobile home park, to provide any improvement unless the requirement is disclosed pursuant to s. 723.011, F.S, which requires the park owner to deliver a prospectus to the prospective homeowner before the rental of a mobile home lot.[105] Section 723.012, F.S., sets forth specific requirements for a prospectus, including that the prospectus must include a "description of all improvements, whether temporary or permanent, which are required to be installed by the mobile home owner as a condition of his or her occupancy in the park."[106]

Effect of Proposed Changes

Section 24 amends s. 723.042, F.S., to reference subsection (7) of s. 723.012, F.S., relating to the information a mobile park owner must disclose in the prospectus or offering circular. The bill deletes the reference to s. 723.011, F.S., which requires a mobile home park owner or developer file a prospectus with the division and to provide a copy to a prospective tenant, but does not detail the information that must be disclosed in the prospectus. Under the bill, a mobile home park owner or developer may not require a person, as a precondition to occupancy in the mobile home park, to provide any improvement unless the requirement is disclosed in the prospectus as required under s. 723.012(7), F.S.

Purchasers of a Mobile Home within Mobile Home Park (Section 25)

Present Situation

The purchaser of a mobile home has the right to assume the remainder of the term of any rental agreement in effect between the mobile home park owner and the seller. The purchaser is entitled to rely on the terms and conditions of the prospectus or offering circular as delivered to the initial recipient.[107]

Upon the expiration of the assumed rental agreement, the mobile home park owner may increase the rental amount if the increase is disclosed to the purchaser prior to his or her occupancy and is imposed in a manner consistent with the initial offering circular or prospectus and ch. 723, F.S.[108]

Effect of Proposed Changes

Section 25 amends s. 723.059, F.S., to instead permit the purchaser to assume the seller's prospectus, instead of entitling the purchaser to rely upon the prospectus of the initial recipient. This change may be to ensure that the purchaser who intends to become a resident of the mobile home park is doing so under the most recent prospectus. However, the bill provides that nothing

[105] Section 723.011(2), F.S.
[106] Section 723.012(7), F.S.
[107] Section 723.059(3), F.S.
[108] Section 723.059(4), F.S.

will prohibit a mobile home park owner from offering the purchaser of a mobile home any approved prospectus.

The bill also allows the mobile home park owner to increase the lot rental amount if the increase is imposed in a manner consistent with the purchaser's prospectus, instead of the initial offering circular or prospectus.

The bill also clarifies the title of s. 723.059, F.S., to more accurately reflect the substance of the statute.

Mobile Home Park Termination of Tenancy (Section 26)

Present Situation

Section 723.061, F.S., provides grounds for the termination of a mobile home park lot rental agreement, including when there will be a change in the use of the land from a mobile home park to some other use. This type of termination and eviction can occur if the park owner gives written notice to the homeowners' association of its right to purchase the park and to the affected mobile home owners and tenant at least 6 months in advance of the eviction of their need to secure other accommodations. The evicted mobile home owners may apply to the Florida Mobile Home Relocation Corporation for payment of moving expenses and the mobile home park owner is required to pay the corporation for the relocation expenses.[109]

Other grounds for termination include a tenant's:[110]

- Conviction of a violation of a federal or state law or local ordinance, if the violation is detrimental to the health, safety, or welfare of other residents of the mobile home park.
- Violation of park rules, the rental agreement, or ch. 723, F.S.
- Failure to qualify as, and to obtain approval to become, a tenant or occupant of the home, if such approval is required by a properly promulgated rule.

Effect of Proposed Changes

Section 26 amends s. 723.061, F.S., to require, within 20 days after giving an eviction notice to a mobile home owner due to a change in land use, the park owner to provide the Division of Condominiums, Timeshares, and Mobile Homes with a copy of the notice. The division must then provide the executive director of the Florida Mobile Home Relocation Corporation with a copy of the notice.

In addition, the bill provides that a park owner does not waive the right to terminate the rental agreement or the right to bring a civil action for the noncompliance, if a park owner accepts payment for any portion of a lot rental amount with actual knowledge of noncompliance after notice and termination of the rental agreement. This provision applies to violations related to the tenant's conviction as described above; violation of the park rules, the rental agreement, or ch. 723, F.S.; or failure to qualify as a tenant or occupant of the home. Any rent received by the park owner must be accounted for at the final hearing.

[109] Section 723.06116, F.S.
[110] Section 723.061(1)(b) and (e), F.S.

Homeowners' Association Officers and Members (Section 27)

Present Situation

Mobile home owners can form a homeowners' association, and therefore exercise the rights of an association, in part by getting two-thirds of all the mobile home owners within the park to consent in writing to join.[111] Upon receiving its certificate of incorporation the association must notify the mobile home park owner in writing of its creation and the names and addresses of the association officers. This notice must be made by personal delivery upon the park owner's representative as designated in the prospectus or by certified mail, return receipt requested.[112]

Effect of Proposed Changes

Section 27 amends s. 723.076, F.S., to specify that the association must notify the park owner in writing by certified mail, return receipt requested, of the names and addresses of newly elected or appointed officers or board members of the association.

Homeowners' Association Bylaws (Section 28)

Present Situation

Voting Requirements and Proxies

Unless otherwise provided in the bylaws, 30 percent of the total membership is required to constitute a quorum for a meeting of the association.[113] Members are allowed to vote by limited proxies, not general proxies. However, no votes may be cast by proxy to elect association board members. If a mobile home or subdivision lot is jointly owned, the owners of the mobile home or subdivision lot must be counted as one for the purpose of determining the number of votes required for a majority. Only one vote per mobile home or subdivision lot will be counted.[114]

Board of Directors' and Committee Meetings

Meetings of the board of directors and meetings of its committees at which a quorum is present must be open to all members. This requirement does not apply to meetings held for the purpose of discussing personnel matters or meetings with the association's attorney where the contents of the discussion would be governed by the attorney-client privilege.[115]

Member Meetings

The association must conduct at least one member meeting annually during which members of the board of the directors are elected. All nominations for candidates for board membership made from the floor must be made at a meeting of the members held at least 30 days before the annual meeting. Unless waived in writing, the notice of the annual meeting must be mailed, hand delivered, or electronically transmitted to each member to at least 14 days before the meeting.

[111] Section 723.075(1), F.S.
[112] Section 723.076(1), F.S.
[113] Section 723.078(2)(b)1., F.S.
[114] Section 723.078(2)(b)2., F.S.
[115] Section 723.078(2)(c), F.S.

An officer of the association must provide an affidavit affirming that the notices were mailed or hand delivered to each member at the address last furnished to the corporation.[116]

Minutes of Meetings

The minutes of all meetings of members of the association, the board of directors, and a committee must be maintained in writing and approved by the members, board, or committee, as applicable. The minutes of all meetings of members and of the board of directors must be maintained, available for inspection, and retained for at least seven years.[117]

Effect of Proposed Changes

Section 28 amends s. 723.078, F.S., related to mobile home park homeowners' associations bylaws.

Voting Requirements and Proxies

The bill specifies that a proxy may not be used in the election of board members in general elections or elections to fill vacancies caused by recall, resignation, or otherwise. Board members must be elected by written ballot or by voting in person.

Under the bill, elections must be decided by a plurality of the ballots cast. There is no quorum requirement for an election but at least 20 percent of the eligible voters must cast a ballot for an election to be valid. A member is prohibited from allowing any other person to cast his or her ballot; improperly cast ballots are invalid. An election is required only if there are more candidates nominated than vacancies that exist on the board.

The bill requires candidates for the board of directors to appear on the ballot in alphabetical order by surname. Ballots may not indicate if a candidate is an incumbent on the board. Ballots must be uniform in appearance and may not provide a space for the signature of, or any other means of identifying, a voter. If the ballot contains more votes than vacancies or fewer votes than vacancies, the ballot is invalid unless otherwise stated in the bylaws. Write-in candidates and more than one vote per candidate per ballot are not allowed.

The bill requires election oversight by an impartial committee responsible for complying with all ballot requirements. The bill defines "impartial committee" to mean a committee whose members do not include any of the following people or their spouses:

- Current board members.
- Current association officers.
- Candidates for the association or board.

The bill requires the association bylaws provide a method for determining the winner of an election in which there is more than one candidate for the same position receiving the same number of votes.

[116] Section 723.078(2)(d), F.S.
[117] Section 723.078(2)(e), F.S.

The bill directs the Division of Condominiums, Timeshares, and Mobile Homes to adopt procedural rules to govern elections, including, but not limited to, rules for providing notice by electronic transmission and rules for maintaining secrecy of ballots.

Board of Directors' and Committee Meetings

The bill provides that meetings between the park owner and the board of directors or any of the board's committees are not required to be open to the association members. The bill clarifies that notices of all board or committee meetings *open to association members* must be posted in a conspicuous place upon the park property at least 48 hours in advance, except in an emergency.

Member Meetings

The bill changes the date for the meeting at which to nominate candidates to the board of directors to 27, rather than 30, days before the annual meeting. Unless otherwise stated in the bylaws, notices may be delivered electronically.

Minutes of Meetings

Under the bill, the minutes of board or committee meetings that are closed to members are privileged, confidential, and not available for inspection or photocopying. The bill clarifies that minutes of meetings *open to association members* must be maintained in writing. All minutes of *open meetings* must be retained within this state for a period of at least five years, rather than seven years as provided in current law that applies to all meetings.

Powers and Duties of Homeowners' Associations (Section 29)

Present Situation

The powers of the association include, but are not limited to, the maintenance, management, and operation of the park property.[118] The association must maintain the certain items, when applicable, which constitute the official records of the association. These include:[119]

- A copy of the articles of incorporation, bylaws, and each amendment.
- A copy of the written rules or policies and each amendment.
- Approved minutes for all meetings of the members, board of directors, and committees of the board, which must be retained within this state for at least seven years.
- A current roster of all members and their mailing address and lot identifications.
- All insurance policies or copies, which must be retained for at least seven years.
- A copy of all contracts or agreements to which the association is a party, which must be retained for at least seven years.
- The financial and accounting records, which must be maintained for at least seven years; and
- All other written records that are related to the operation of the association.

In addition to the specific time and location retention mentioned above for certain official records, the statute also specifies that all official records must be maintained within the state for at least seven years. The official records must be made available to a member for inspection or

[118] Section 723.079(1), F.S.
[119] Section 723.079(4)(a)-(i), F.S.

photocopying within 10 business days after receipt by the board or its designee of a written request submitted by certified mail, return receipt requested.[120]

Failure to provide access to the records creates a rebuttable presumption that the association willfully failed to comply with the law.[121] A member who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are $10 per day up to 10 days and calculation begins on the 11th business day after receipt of the written request by certified mail, return receipt requested.[122]

Effect of Proposed Changes

Section 29 amends s. 723.079, F.S., modify the retention of certain official records of the association. The following written records must be retained within this state for at least 5 years:

- Approved minutes of all meetings of members of the association and meetings open to members.[123]
- Insurance policies (time for retention begins after the expiration date of the policy).
- Contracts and agreements of the association (time for retention begins after the expiration date of the contract or agreement).
- Financial and accounting records.
- Other written records not specified as official records in the statute (described above under the Present Situation) (time for retention begins after the expiration date, as applicable).

The bill repeals the requirement that all official records must be maintained within the state for at least seven years. Thus the association is not required to retain the copy of the articles of incorporation, bylaws, and each amendment;[124] written rules or policies and each amendment; and the current roster of all members and their mailing addresses and lot numbers.

The bill extends the time that the records must be made available for inspection from 10 days to 20 days of receipt of a written request. Under the bill, an association member denied access to association records may recover only $10 per calendar day up to 10 days, not to exceed $100, and the calculation for the damages begins on the 21st business day after the association receives the written request for records.

The bill requires a dispute between a member and an association regarding inspecting or photocopying official records to be submitted to mandatory binding arbitration with the Division of Condominiums, Timeshares, and Mobile Homes. The arbitration must be conducted pursuant to s. 723.1255, F.S., (created by the bill) and procedural rules adopted by the division.

[120] Section 723.079(5), F.S.
[121] Section 723.079(5)(a), F.S.
[122] Section 723.079(5)(b), F.S.
[123] Similar to the changes in section 29 of the bill, discussed above under the sub-subheading.
[124] These documents should be available on the Department of State corporate filings website for the association.

Alternative Resolution of Recall, Election, and Inspection and Photocopying of Official Records Disputes (Section 30)

Present Situation

Recall disputes in a mobile home park homeowners' association are subject to mandatory binding arbitration by the Division of Condominiums, Timeshares, and Mobile Homes.[125] In contrast, election, of officers, recall of officers, and other disputes in a condominium association are subject to mandatory nonbinding arbitration.[126] Election disputes in a homeowners' association are subject to mandatory binding arbitration,[127] and all other disputes between a homeowner and a homeowners' association are subject to mandatory mediation before an action may be filed in court.[128] The division has adopted rules of procedure governing arbitration for recall proceedings related to board members of a condominium, cooperative, or mobile home homeowners' association.[129] There is a $50 filing fee for arbitration of a condominium dispute.[130] However, ch. 723, F.S., does not authorize a filing fee as a precondition for mandatory binding arbitration by the division for a recall dispute at a mobile home park homeowners' association.

Effect of Proposed Changes

Section 30 amends s. 723.1255, F.S., to require disputes between a mobile home owner and a homeowners' association regarding the election and recall of officers or directors or the inspection and photocopying of official records to be submitted to a mandatory binding arbitration with the division. The arbitration will be conducted pursuant to procedural rules adopted by the division.

Each party is responsible for paying its own attorney fees, expert and investigator fees, and associated costs. The cost of the arbitrator must be divided equally between the parties regardless of the outcome.

Bill Sections Addressing Reenacting Issues and Effective Date

Effect of Proposed Changes

Section 31 reenacts a portion of s. 420.507, F.S., to incorporate the amendments to the SHIP program in section 12 of the bill.

Section 32 reenacts a portion of s. 193.018, F.S., to incorporate the amendments to the CWHIP program in section 13 of the bill.

Section 33 provides an effective date of July 1, 2020.

[125] Sections 723.078(2)(i)3. and 723.1255, F.S.
[126] *See* ss. 718.112(2)(j) and (k) and 718.1255(4) and (5), F.S.
[127] *See* s. 720.303(10)(d), F.S.
[128] Section 720.311, F.S.
[129] Section 723.1255, F.S., and Rule 61B-50, F.A.C.
[130] Section 718.1255(4)(a), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Mandatory Binding Arbitration

The bill requires mobile home homeowners' associations and members to submit certain disputes to the Division of Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation. The application of these provisions is unclear and it is unknown how the division will implement these requirements. The bill specifically requires the "cost of the arbitrators" to be paid by the parties. The amount of the cost for the division's arbitration of disputes is not specified in the bill.

The bill addresses additional subjects unrelated to the requirement that the "cost of the arbitrators" be paid by the parties. To the extent the bill imposes a fee for arbitration of certain disputes while addressing other subjects, the bill may be unconstitutional as a violation the single-subject requirement for the imposition, authorization, or raising of a state tax or fee under Article VII, s. 19 of the Florida Constitution. Under that section, a "state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject." A "fee" is defined by the Florida Constitution to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service."[131]

E. Other Constitutional Issues:

Homeowners' Associations

The may create a conflict with the governing documents of homeowners' associations to the extent the documents set forth procedures and requirements for election of board members (section 28 of the bill), establish open meetings for meetings with the park owner (section 28 of the bill), and set forth procedures for disputes regarding inspection and copying of records (sections 29 and 30 of the bill).

[131] FLA. CONST. art. VII, s. 19(d)(1).

The governing documents of these associations are generally considered contracts.[132] To the extent that the provisions of this bill may be applied retroactively, provisions of the bill may prompt concerns regarding the unconstitutional impairment of contract.

Some contracts forego the impairment of contract analysis by incorporating the relevant governing statute for that particular type of association, including future changes. In the context of condominiums, for example, the contract may include what is referred to as the "Kaufman language," which states that the contract or association "shall be governed by the Condominium Act, as amended from time-to-time."[133] Without the Kaufman language, newly enacted statutes may only affect new association documents (or amendments to existing documents) or prior association documents in a limited manner.

Article I, s. 10 of the United States Constitution prohibits state legislatures from enacting laws impairing the obligation of contracts. As early as 1880, the federal courts recognized that the contract clause does not override the police power of the states to establish regulations to promote the health, safety, and morals of the community.[134] The severity of the impairment is a key issue when evaluating whether a state law impairs a contract.[135] In *Exxon Corp. v Eagerton*, 462 U.S. 176 (1983), the Supreme Court suggested it would uphold legislation that imposes a generally applicable rule of conduct designed to advance a broad societal interest that only incidentally disrupts existing contractual relationships.

Article I, s. 10 of the Florida Constitution also prohibits the state from enacting laws impairing the obligation of contracts. While Florida courts have historically strictly applied this restriction, they have exempted laws when they find there is an overriding public necessity for the state to exercise its police powers.[136] This exception extends to laws that are reasonable and necessary to serve an important public purpose,[137] to include protecting the public's health, safety or welfare.[138] For a statute to offend the constitutional prohibition against impairment of contract, the statute must have the effect of changing substantive rights of the parties to an existing contract. Any retroactive application of a statute affecting substantive contractual rights would be constitutionally suspect.[139]

Historically, both the state and federal courts have attempted to find a rational and defensible compromise between individual rights and public welfare when laws are enacted that may impair existing contracts.[140] The balancing process focuses on whether "the nature and extent of the impairment is constitutionally tolerable in light of the

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[132] *See Venetian Isles Homeowners' Assoc., Inc., v. Albrecht*, 823 So.2d 813 (Fla. 2nd D.C.A. 2002) and *Cudjoe Gardens Property Owners Assoc., Inc. v. Patne*, 779 So.2d 598 (Fla. 3rd D.C.A. 2001).
[133] See *Kaufman v. Shere*, 347 So.2d 627 (Fla. 3 DCA 1977).
[134] *Stone v. Mississippi*, 101 U.S. 814 (1880).
[135] *General Motors Corp. v. Romein*, 503 U.S. 181 (1992).
[136] *Park Benziger & Co. v. Southern Wine & Spirits, Inc.*, 391 So.2d 681 (Fla. 1980).
[137] *Yellow Cab Co. v. Dade County*, 412 So.2d 395 (Fla. 3rd DCA 1982), petition den. 424 So.2d 764 (Fla. 1982).
[138] *Khoury v Carvel Homes South, Inc*., 403 So.2d 1043 (Fla. 1st DCA 1981), petition den. 412 So.2d 467 (Fla. 1981).
[139] *Tri-Properties, Inc. v. Moonspinner Condominium Association, Inc.*, 447 So.2d 965 (Fla. 1st DCA 1984).
[140] *Pomponio v Claridge of Pompano Condominium, Inc.*, 378 So.2d 774 (Fla. 1979).

importance of the state's objective, or whether it unreasonably intrudes into the parties' bargain to a degree greater than is necessary to achieve that objective."[141]

Mandatory Binding Arbitration

The bill amends ss. 723.079(5) and 723.1255, F.S., to require mobile home homeowners' associations and members to submit certain disputes to the Department of Business and Professional Regulation for mandatory binding arbitration. The application of these provisions is unclear and it is unknown how the department will implement them. However, it appears that the outcome of the arbitration is meant to be the final action on the dispute; the bill may prevent a party to the dispute from appealing or taking other legal recourse, thereby limiting a party's access to courts.

This provision may implicate concerns related to the constitutional right of access to courts. Article I, s. 21 of the Florida Constitution, provides: "The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay." No similar provision exists in the federal constitution. If the Legislature asserts a valid public purpose, it can restrict access to the courts as long as it provides a reasonable alternative to litigation. In *Nationwide Mut. Fire Ins. Co. v. Pinnacle Medical, Inc.,* the Florida Supreme Court held that requiring mandatory binding arbitration of medical expense claims under the no-fault law without also providing for an appeal to the circuit court for a trial de novo is an unconstitutional denial of access to court.[142] Alternatively, in *Lasky v. State Farm Ins. Co.*,[143] the Florida Supreme Court upheld the constitutionality of the state's no-fault automobile insurance statute, although the statute restricted access to the courts. Unless medical expenses reached a certain level, the statute restricted an injured party from bringing a tort action to recover for pain and suffering. The court reasoned that because the statute required every owner of a motor vehicle to obtain insurance, a reasonable alternative to traditional tort actions was available. The court concluded that the statute did not deprive the appellants of their right to a trial by jury because it only abolished the right of recovery in narrow circumstances where it left "nothing to be tried by jury"[144]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

While the extent to which the prioritizing of SAIL funding for youth aging out of foster care will lead to the development of such housing, any housing created will be to the benefit of such youth and any campus that provides such housing.

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[141] *Id.* at 780.
[142] *Nationwide Mut. Fire Ins. Co. v. Pinnacle Medical, Inc.*, 753 So.2d 55 (Fla. 2000).
[143] *Lasky v. State Farm Ins. Co*., 296 So.2d 9 (Fla. 1974).
[144] *Id*. at 22. *See generally* Mark M. Hager, *No Fault Drives Again: A Contemporary Primer*, 52 U. Miami L. Rev. 793 (1998).

The Florida Housing Coalition, as provider of the Catalyst Program, will incur new costs related to the administration of statewide regional affordable housing workshops for locally elected officials and required reporting as specified in sections 15 and 17 of the bill. The coalitions estimates that the workshops and report may cost approximately $72,900 to $101,000, depending on the number of regions and whether the method of delivery is by teleconference or in person.[145] SB 2500 includes an appropriation of $500,000 in nonrecurring funds to the Catalyst Program.[146]

A recreational vehicle dealer may avoid the costs of obtaining a garage insurance policy, if the dealer sells only park trailers.

Mobile home dealers may benefit by only being required to have enough space to display a manufactured home as a mobile home.

Mobile home park homeowners' associations may incur costs to change bylaws and related policies to meet the requirements of the bill, including those related to elections, and costs related to notifications required to the park owner by certified mail.

Mobile home owners and homeowners' associations will bear the costs of any disputes about elections, recalls, or inspection and copying of records that must be submitted to mandatory binding arbitration.

C. Government Sector Impact:

Local governments may incur indeterminate, but likely insignificant, expenses to comply with certain provisions related to affordable housing and reporting information about impact fees and expenditures for affordable housing.

There is currently no appropriation in SB 2500, the Senate's General Appropriations Bill for Fiscal Year 2020-2021, for the Community Workforce Housing Innovation Pilot Program (CWHIP) or its successor program under the bill. It is unknown if the FHFC would dedicate funds to the program without a specific appropriation in the General Appropriations Act (section 14 of the bill)

The amount of funds set aside for persons with special needs that the FHFC would prioritize for the housing for youth aging out of foster care as provided in section 13 of the bill is unknown. The cost to the FHFC and the Department of Children and Families to create minimum criteria can likely be absorbed within existing resources.

Local governments may incur travel expenses linked to elected official attendance at regional affordable housing workshops.

[145] Kody Glazer, Legal Director, Florida Housing Coalition, *Senate Bill 998: Cost Estimate of Proposed Catalyst Additions*, February 14, 2020 (on file with the Senate Appropriations Committee).
[146] Specific Appropriation 2282, s. 6, SB 2500 (2020).

The costs to the Department of Business and Professional Regulation to conduct the mandatory binding arbitration required under section 31 of the bill is unknown at this time. However, the bill does require the costs to be borne by the parties.

VI. Technical Deficiencies:

Sections 9 and 10 of the bill change references to a repair and remodeling code for mobile and manufactured homes. Currently, Rule 15C-2.0081, F.A.C., references the "Mobile/Manufactured Home Repair and Remodeling Code," not the "Mobile and Manufactured Home Repair and Remodeling Code" referenced by the bill. Additionally, the title of s. 320.8232, F.S., is currently "Establishment of uniform standards for used recreational vehicles and repair and remodeling code for mobile homes." The sponsor may wish to amend the bill to update the title of the statute to include "manufactured homes."[147]

VII. Related Issues:

The FHFC is authorized to adopt rules to implement the Community Workforce Housing Loan Program created in section 14 of the bill.

The Division of Condominiums, Timeshares, and Mobile Homes is required to adopt procedural rules to:

- Govern mobile home park homeowners' association elections, including, but not limited to, rules for providing notice by electronic transmission and rules for maintaining secrecy of ballots in section 28 of the bill.
- Govern mandatory binding arbitration for disputes of election of homeowners' association officers, recall of officers, and inspection and photocopying of official records in section 29 of the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.01055, 129.03, 163.31771, 163.31801, 166.04151, 166.241, 320.77, 320.771, 320.822, 320.8232, 367.022, 420.5087, 420.5095, 420.531, 420.9075, 420.9076, 723.011, 723.012, 723.023, 723.031, 723.037, 723.041, 723.042, 723.059, 723.061, 723.076, 723.078, 723.079, and 723.1255.

The bill reenacts the following sections of the Florida Statutes: 193.018 and 420.507.

The bill creates section 420.518 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS/CS by Appropriations on March 3, 2020:
The committee substitute:

[147] Department of Highway Safety and Motor Vehicles, *2020 Agency Legislative Bill Analysis SB 998*, February 12, 2020 (on file with the Senate Committee on Infrastructure and Security).

- Requires counties, municipalities, and special districts to report on each exception and waiver of impact fees for affordable housing within the annual financial audit report submitted to the Department of Financial Services.
- Requires counties and municipalities to report annually on all funds spent on affordable housing, including federal, state, local, and other funds expended, in their annual reports of economic status information to the Office of Economic and Demographic Research.
- Authorizes the FHFC to preclude applicants and affiliates of applicants from participation in FHFC programs for certain actions and provides procedures for such preclusion.
- Clarifies that the required notice to a mobile home park owner is of the new board members, not new homeowners' association members.
- Moves the provisions related to prioritization of SAIL funds for housing for youth aging out of foster care into the SAIL statute (the provision was drafted in the SHIP statute).
- Makes technical amendments to the title.
- Removes all provisions of the bill related to property tax exemptions, which:
  - Authorized counties and municipalities to grant property tax exemptions for property that is being used to provide or being prepared to provide affordable housing;
  - Extended a current property tax exemption for affordable housing to vacant units within an affordable housing property, as well as units occupied by persons who no longer meet the income limitations of affordable housing, but who did meet those limitations at the time they became tenants;
  - Authorized a current property tax exemption for affordable housing to apply when owned by multiple limited liability companies or limited partnerships, as long as the ultimate owner is a 501(c)(3) organization; and
  - Extended the current tax exemption for housing authority property to instrumentalities of the housing authority.

CS/CS by Infrastructure and Security on February 17, 2020:

- Reverts accessory dwelling units back to optional instead of mandatory for local governments.
- Allows property used for certain purpose to be eligible for exemption from ad valorem taxes.
- Modifies the CWHIP program into a loan program, and removes workforce housing set aside requirements.
- Modifies numerous issues related to the mobile home park owners, mobile home owners, and mobile home homeowners' associations.
- Allows a mobile home park to be rebuilt to same density as was approved, permitted, and built prior to destruction from natural force. The bill allows for "same density as was approved, permitted, or built."
- Changes mobile home eviction notification back to current law requiring certified or registered mail, return receipt requested.

CS by Community Affairs on January 13, 2020:

- Removes a provision prohibiting local governments from collecting impact fees and specified other fees for the development or construction of affordable housing.
- Restores language set for removal in the original bill providing that local governments granting impact fee waivers for affordable housing do not have to use revenues to offset such waivers.
- Provides that the bill's required local government ordinance allowing ADUs applies in areas zoned for single-family residential use rather than areas zoned for any residential use.
- Removes a newly proposed process for local government approvals of development permits, construction permits, or certificates of occupancy which would apply specifically for affordable housing.
- Changes an intended priority funding criteria within the Workforce Housing Loan Program to set aside "at least 50 percent of units" for workforce housing.
- Removes a newly proposed Rental to Homeownership Program tied to the awarding of rental funding in ch. 420, F.S.
- Authorizes the FHFC to withhold up to 5 percent of annual Local Government Housing Trust Fund distributions to fund transitional housing for persons aging out of foster care.
- Removes proposed changes to funding reservation percentage categories and administrative cost caps in the SHIP Program.
- Adds data reporting within a SHIP entity's submissions to the FHFC on applications received, approved and denied.
- Changes the frequency of proposed locally elected regional workshops on affordable housing from quarterly to biannually and permits three absences (rather than one) before the FHFC may withhold a local government's SHIP funding.
- Removes some cross references and statutory reenactments made unnecessary by the other changes in the bill.
- Clarifies provisions exempting mobile home park owners from the jurisdiction of the PSC when they provide water and wastewater.

B. Amendments:

None.