

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 721 Authorization of Restrictions Concerning Dangerous Dogs
SPONSOR(S): Local Administration & Veterans Affairs Subcommittee, Buchanan and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 614

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	16 Y, 0 N, As CS	Leshko	Miller
2) Regulatory Reform Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Public housing authorities (PHAs) are created pursuant to Florida law at municipal, county, and regional levels, and become active through resolution by the applicable governing body. Among other powers, PHAs may administer fair housing ordinances and other ordinances as adopted by municipalities, counties, or other authorities contracting for administrative services.

PHAs must file annual agency plans with the U.S. Department of Housing and Urban Development which must include their policies on public housing occupancy, including pet ownership. These policies may include reasonable requirements such as prohibitions on types of animals that are classified as dangerous and restrictions on individual animals based on certain factors including size and weight. Currently, the policies of some PHAs prohibit pets based on the breed, behavior, or training of the pet. However, some regulations based on breed do not depend on a finding that the pet is vicious or dangerous. Additionally, the definition of "dangerous dog" under Florida law is not uniformly applied in all PHA policies.

Local governments may adopt ordinances addressing the safety and welfare concerns stemming from dog attacks on people or domestic animals, placing restrictions and additional requirements on owners of dangerous dogs, provided that no such regulations may be breed specific. However, ordinances adopted prior to October 1, 1990 are exempt from these statutory requirements.

The bill authorizes PHAs to adopt rules or policies imposing restrictions or further requirements on owners of dogs deemed dangerous, as defined by Florida law. The bill further allows PHAs to develop procedures or criteria to aid in the implementation of these rules and policies. Additionally, the bill removes the current exception for local ordinances adopted prior to October 1, 1990, bringing such ordinances under the requirements of the statute.

This bill is projected to have no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Creation of Housing Authorities

Public housing authorities (PHA) are created at municipal, county¹, and regional levels.² While authorized by statute, said housing authorities may not transact any business or exercise their statutory powers until such time as the governing body of the municipality or county declares by resolution that there is a need for a housing authority to function in the jurisdiction. This determination may be made by the governing body of the municipality or county on its own motion or upon the filing of a petition signed by 25 residents of the jurisdiction asserting that there exists a need for such an authority and requesting that the governing body so declare.³ The governing body may adopt such a resolution if it finds the following:

- Insanitary or unsafe inhabited dwelling accommodations exist in the city or county; or
- There is a shortage of safe or sanitary dwelling accommodations in the city or county available to persons of low income at rentals they can afford.⁴

Upon notification of the adoption of such a resolution, the mayor of a city, or the Governor, shall appoint commissioners of the housing authority for the city or county, respectively.⁵

Additionally, if the governing body of two or more contiguous counties each declares by resolution the need for one housing authority to exercise powers and other functions for all such counties, a regional housing authority will be created; and any housing authorities created, for each individual county, shall cease to exist except for the purpose of winding up their respective affairs and executing a deed to the regional housing authority. The governing body of a county shall not adopt a resolution of this kind if its current county housing authority has any outstanding obligations, unless:

- All obligees of such county housing authority and any parties to any contracts, bonds, notes, or other obligations of such county housing authority agree to substitute the regional housing authority in lieu of the county housing authority on all such contracts, bonds, notes, or other obligations; and
- The commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to the regional housing authority.⁶

Furthermore, the governing body of each of two or more contiguous counties must declare by resolution that:

¹ A county housing authority shall operate in all areas of the county except those portions that lie within the territorial boundaries of any city (defined as any city or town having a population of more than 2,500 according to the last state or federal census). Ss. 421.27(3) and 421.03(2), F.S.

² Ss. 421.04, 421.27, and 421.28, F.S.; A regional housing authority shall operate in all counties for which the regional housing authority was created except the portions of the counties that lie within the territorial boundaries of cities. Ss. 421.29(1) and 421.03(2), F.S.

³ Ss. 421.04(1) and 421.27(1), F.S.

⁴ S. 421.04(2), F.S.; In determining whether dwelling accommodations are unsafe or insanitary the governing body may take into consideration the following: the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants, the size and arrangements of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes. S. 421.04(2)(b), F.S.

⁵ S. 421.27(2), F.S.

⁶ S. 421.28(1), F.S.

- Insanitary or unsafe inhabited dwelling accommodations exist in such county or there is a shortage of safe and sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford; and
- A regional housing authority would be a more efficient or economical administrative unit than the housing authority of such county to carry out the purposes of this Housing Authorities Law in such county.⁷

Powers of Housing Authorities

PHAs are authorized to administer fair housing ordinances and other ordinances adopted by municipalities, counties, or other authorities contracting for administrative services.⁸

Public Housing Authority Agency Plans

PHAs must submit annual plans to the U.S. Department of Housing and Urban Development for approval. These plans must include a statement of the PHA's policies and rules regarding ownership of pets in public housing.⁹

PHAs may impose reasonable requirements on residents of public housing regarding pet ownership, which may include prohibitions against types of animals that are classified as dangerous¹⁰ and individual animals based on certain factors, such as the size and weight of the animal.¹¹

Currently, some PHAs include provisions in their policies prohibiting pets based on breed, behavior, or training of the pet.¹² However, some regulations based on breed do not depend on a finding that the pet is vicious or dangerous. Additionally, the definition of "dangerous dog" under Florida law is not uniformly applied in all PHA policies.¹³

Local Restrictions Regarding Dangerous Dogs

Local governments may adopt ordinances to address safety and welfare concerns stemming from dog attacks on people or domestic animals, placing restrictions and additional requirements on owners of dangerous dogs, provided that no regulations may be breed specific.¹⁴ Ordinances adopted prior to October 1, 1990, are exempt from these statutory requirements.¹⁵

⁷ S. 421.28(3), F.S.; No governing body shall adopt a resolution of this kind unless a public hearing has first been held. S. 421.29(7), F.S.

⁸ S. 421.08(6), F.S.

⁹ 42 U.S.C.A. §1437c-1; See also 24 C.F.R. §903.7(n) (The policies must be in accordance with section 31 of the 1937 Act (42 U.S.C. §1437z-3)).

¹⁰ Classifications must comply with state and local law. 24 C.F.R. §960.707(b)(3).

¹¹ 42 U.S.C.A. §1437z-3(b)(3); See generally Federal H.R. 5828 – Pets Belong With Families Act was introduced on November 2, 2021, and is still pending. This resolution seeks to amend 42 U.S.C.A. §1437z-3 in order to prohibit PHAs from imposing breed restrictions on household pets owned by residents of dwelling units in public housing, and for other purposes. The proposed amendment allows for "prohibitions on types of animals that are classified as dangerous, provided that classification is based on specific behaviors or actions by the animal and is not based on the breed of the animal," and further clarifies that reasonable requirements imposed by PHAs may not include prohibitions on breeds of animals. <https://www.congress.gov/bill/117th-congress/house-bill/5828/text?q=%7B%22search%22%3A%5B%22breed+restrictions%22%2C%22breed%22%2C%22restrictions%22%5D%7D&r=1&s=9> (last visited Jan. 3, 2022).

¹² See e.g., Tampa Housing Authority, <https://www.thafl.com/Departments/Real-Estate-Development/library/PHA-PLAN.pdf> (last visited Jan. 3, 2022) (forbidding "Pit bull, Rottweiler, German Shepherd, Chow, Doberman Pinscher or any species considered vicious, intimidating, or kept for the purpose of training for fighting or wagering of bets"); St. Petersburg Housing Authority, https://www.stpeteha.org/plugins/show_image.php?id=1912 (last visited Jan. 3, 2022) (prohibiting "any animal deemed to be potentially harmful to the health or safety of others, including attack or fight trained dogs . . . certain breeds may be prohibited at the discretion of [St. Petersburg Housing Authority]"); Key West Housing Authority, https://www.kwha.org/egov/documents/1614973714_73249.pdf (last visited Jan. 3, 2022) (prohibiting "vicious or intimidating pets. Dog breeds including pitbull, rottweiler, Doberman, are considered vicious or intimidating breeds").

¹³ See S. 767.11(1), F.S.

¹⁴ A local government may only enact additional restrictions or requirements on the owners of dogs who have already been declared "dangerous" as defined in s. 767.11, F.S. This section does not authorize or prohibit additional restrictions or requirements on owners of dogs who have not been declared "dangerous." *Hoesch v. Broward County*, 53 So. 3d 1177 (Fla. 4th DCA 2011).

¹⁵ S. 767.14, F.S.

Florida law defines a “dangerous dog” as any dog that according to the records of the appropriate authority.¹⁶

- Has aggressively bitten, attacked, or endangered or inflicted severe injury¹⁷ on a human being on public or private property;
- Has more than once severely injured or killed a domestic animal while off the owner’s property; or
- Has, when unprovoked¹⁸, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.¹⁹

Effect of Proposed Changes

The bill authorizes PHAs to adopt rules or policies imposing restrictions or further requirements on owners of dogs deemed dangerous, as defined by Florida law. The bill authorizes PHAs to develop procedures or criteria to aid in the implementation of these rules and policies. Additionally, the bill removes the exemption for local ordinances adopted prior to October 1, 1990, requiring those ordinances must now comply with these statutory restrictions.

B. SECTION DIRECTORY:

Section 1: Amends s. 767.14, F.S., providing housing authorities the power to adopt rules or policies addressing dangerous dogs and removing the exemption for local ordinances adopted prior to October 1, 1990.

Section 2: Provides an effective date of October 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

¹⁶ Local governments may not alter the statutory definition of “dangerous dog.” See *Hoesch*, 53 So. 3d at 1180-1181.

¹⁷ “Severe injury” is defined as any physical injury resulting in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery. S. 767.11(3), F.S.

¹⁸ “Unprovoked” is defined as a victim who conducted himself or herself peacefully and lawfully was bitten or chased in a menacing fashion or attacked by a dog. S. 767.11(2), F.S.

¹⁹ S. 767.11(1), F.S.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor authorizes administrative rulemaking by executive agencies..

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 13, 2022 the Local Administration & Veterans Affairs Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS clarifies that local governments have the authority to adopt ordinances and housing authorities have the authority to adopt rules or policies related to dangerous dogs.

This analysis is drafted to the committee substitute adopted by the Local Administration & Veterans Affairs Subcommittee.