The Florida Senate

Issue Brief 2009-310 *October 2008*

Committee on Community Affairs

AGENCY SUNSET REVIEW OF THE DEPARTMENT OF COMMUNITY AFFAIRS

Statement of the Issue

Under the Florida Government Accountability Act, most state agencies are subject to a "sunset" review process to determine whether the agency should be retained, modified, or abolished. During the 2010 Regular Session, the Legislature will review the Departments of Children and Families, Management Services, State, and Community Affairs. The review of the Department of Community Affairs will include the Division of Emergency Management and the Florida Housing Finance Corporation, both of which are attached to but independent of the department. The Senate Community Affairs Committee is the primary sunset review committee for the Department of Community Affairs and the Florida Housing Finance Corporation. The Senate Military Affairs and Domestic Security Committee is the primary sunset review for the Division of Emergency Management. The Senate Transportation and Economic Development Appropriations Committee will assist both committees in this review.

The objective of this Issue Brief is to provide background information to assist in the preliminary examination of the department, the division, and the corporation. This research may be useful in guiding discussions in the 2009 Regular Session and in identifying areas for further research.

It is anticipated that a related Interim Project in 2009 will provide additional information, findings related to the effectiveness and efficiency of the department, the division, and the corporation, and recommendations on the necessity of continuing the duties and responsibilities assigned to the department, the division, and the corporation.

Discussion

Background

Sections 11.901-.920, F.S., are known as the Florida Government Accountability Act. Under this act, most state agencies and their respective advisory committees are subject to a "sunset" review process to determine whether the agency should be retained, modified, or abolished.

Reviews are accomplished in three steps. First, an agency under review must produce a report providing specific information, as enumerated in s. 11.906, F.S., related to:

- Agency performance measures;
- The agency complaint process;
- Public participation in making agency rules and decisions;
- Compliance with state purchasing goals and programs for specified businesses;
- Compliance with statutory objectives for each program and activity;
- Program overlap or duplication with other agencies;
- Less restrictive or alternative methods of service delivery;
- Agency actions to correct deficiencies and implement recommendations of legislative and federal audit entities;
- The process by which an agency actively measures quality and efficiency of services it provides to the public;
- Compliance with public records and public meetings requirements;
- Alternative program delivery options, such as privatization, outsourcing, or insourcing;
- Agency recommendations to improve program operations, reduce costs, or reduce duplication;

- The effect of federal intervention or loss of federal funds if the agency, program, or activity is abolished;
- Agency advisory committees;
- Agency programs or functions that are performed without specific statutory authority; and
- Other information requested by the Legislature.

Upon receipt of the agency information, the Joint Legislative Sunset Committee and the House and Senate committees assigned to act as sunset review committees[1] must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA). Based on the agency submissions, the OPPAGA studies, and public input, the Joint Legislative Sunset Committee and the legislative sunset review committees will:

- Make recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees, and on the need for the performance of the functions of the agency and its advisory committees; and
- Make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review.

In addition, the House and Senate sunset review committees must propose legislation necessary to carry out the committees' recommendations.

An agency subject to review is scheduled to be abolished on June 30 following the date of review as specified in s. 11.905, F.S., provided the Legislature finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency. If an agency is not abolished, continued, or reorganized, the agency shall continue to be subject to annual sunset review by the Legislature.

Evaluation Method

Based upon statutory directives and a review of previous sunset reports, Senate staff has developed the following guidelines to be used in a preliminary and subsequent review of the agencies, their programs, and their advisory committees. Guidelines include:

- What is the mission of the agency?
- Why is the agency performing this mission?
- How are the programs of the agency funded?
- What would be the impact to the public health, safety and welfare should the programs be eliminated or modified?[2]
- What duplication of programs exists within the agency or by other agencies or governments?
- Can these agency programs be provided more efficiently?[3]
- What initiatives has the agency undertaken to increase program efficiency?
- Are there management tools in place to appropriately measure program performance?

---

[1] Senate Committees include: Children, Families and Elder Affairs; Commerce; Community Affairs; Ethics and Elections; Governmental Operations; and Military Affairs and Domestic Security, together with their respective Appropriations Committee.

[2] This issue will not be addressed in this Issue Brief, but rather in a subsequent report related to the Sunset Review, which may include findings and recommendations.

[3] This issue will not be addressed in this Issue Brief, but rather in a subsequent report related to the Sunset Review, which may include findings and recommendations.

Guidelines for Agency Advisory Committees[4] include:

- Was the agency advisory committee created to resolve a problem or provide a service? If so, has the problem been solved or the service provided?
- Would there be an adverse effect on the agency if the advisor body were abolished?[5]
- Is the advisory body or committee representative of the public and stakeholders impacted by their actions?

This Issue Brief will address the issues identified in the guidelines and provide an overview of the Department of Community Affairs, the Division of Emergency Management, and the Florida Housing Finance Corporation.

Department of Community Affairs

Mission and Agency Structure

The Department of Community Affairs states that the agency mission is to "meet the needs of Floridians' by investing in communities and working with them to plan and manage growth."

Section 20.18, F.S., creates the Department of Community Affairs (department) and provides that the head of the department is the Secretary of Community Affairs who is appointed by the Governor and confirmed by the Senate. The department is designated by law as the state's land planning agency,[6] and is divided into the Division of Community Planning, the Division of Housing and Community Development, and the Division of Emergency Management.[7]

Section 20.18(2), F.S., provides that the Division of Emergency Management is a separate budget entity and is not subject to control, supervision or direction by the Department of Community Affairs in any manner. The division director is appointed by the Governor, serves at the pleasure of the Governor, and is the agency head of the division for all purposes. Professional, technological, and administrative services are provided by the department under a service agreement executed by the department and the division. For FY 2008-09, the division has 138 full-time equivalent employees (FTEs), a trust fund budget of $765 million (mostly federal funds), and no general revenue appropriation.

Similarly, s. 420.504, F.S., creates the Florida Housing Finance Corporation as a public corporation and a public body within the Department of Community Affairs. The corporation is designated as a separate budget entity and is not subject to control, supervision or direction by the department in any manner, including personnel, purchasing, real estate transactions, and budgetary matters. Corporation employees are not state employees. For FY 2008-09, the corporation has 138 full-time employees, 5 part-time employees, a trust fund budget of $303 million (state documentary stamp tax revenues), and no general revenue appropriation.

Department of Community Affairs
Appropriations for the Fiscal Years 2006-07 through 2008-09

Between FY 2006-07 and FY 2008-09, total appropriations for the department fell by more than $217 million from $400.7 million to $183.6 million. This can be attributed to a $14 million reduction in general revenue appropriations, as well as a $203 million reduction in trust funds. General revenue as a percentage of the department's budget is no more than 3.5 percent of the total funds appropriated in FY 2008-09.

Although the department has a number of programs, the following four programs (three federal and one state) comprise $146.8 million or 81 percent of the department's $183.6 million budget:

---

[4] Section 11.902(2), F.S., defines "advisory committee" for purposes of the Florida Government Accountability Act as "any examining and licensing board, council, advisory council, committee, task force, coordinating council, commission, or board of trustees as defined in s. 20.03(3), (7), (8), (9), (10), (11), or (12) or any group, by whatever name, created to provide advice or recommendations to one or more agencies, departments, divisions, bureaus, boards, sections, or other units or entities of state government."

[5] This issue will not be addressed in this Issue Brief, but rather in a subsequent report related to the Sunset Review, which may include findings and recommendations.

[6] Section 163.3164 (20), F.S.

[7] Section 20.18, F.S.

- U.S. Department of Housing and Urban Development Small Cities Community Block Development Grant Program - $27.7 million.
- U.S. Department of Health and Human Services Community Services Block Grant Program - $18.8 million.
- U.S. Department of Health and Human Services Low-Income Home Energy Assistance Program - $26.9 million.
- The Florida Communities Trust Program (including Stan Mayfield Working Waterfronts Program) - $73.4 million.

DCA Appropriations for 2006-07 Fiscal Year

	Fiscal Year 2006-07			
	FTE	**Gen Rev**	**Trust Funds**	**Total Funds**
Office of the Secretary	89.00	2,351,978	5,283,044	7,635,022
Division of Community Planning	65.00	8,569,747	5,493,068	14,062,815
Division of Housing and Community Development	72.00	8,962,910	370,094,791	379,057,701
Total	226.00	19,884,635	380,870,903	400,755,538

Source: Senate Transportation & Economic Development Appropriations Committee

DCA Appropriations for 2007-08 Fiscal Year

	Fiscal Year 2007-08			
	FTE	**Gen Rev**	**Trust Funds**	**Total Funds**
Office of the Secretary	86.00	2,643,199	5,391,829	8,035,028
Division of Community Planning	69.00	8,334,917	5,748,927	14,083,844
Division of Housing and Community Development	71.00	4,017,690	168,794,081	172,811,771
Total	226.00	14,995,806	179,934,837	194,930,643

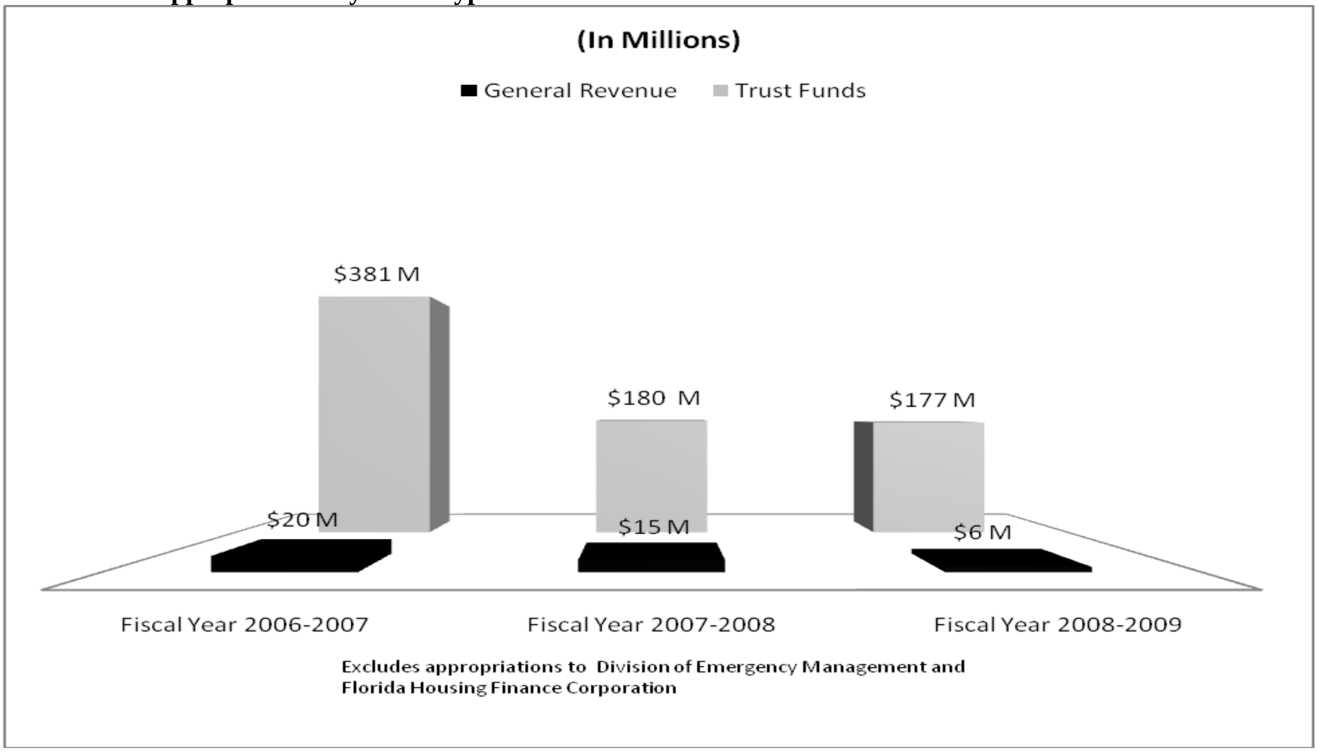
Source: Senate Transportation & Economic Development Appropriations Committee

DCA Appropriations for 2008-09 Fiscal Year

	Fiscal Year 2008-09			
	FTE	**Gen Rev**	**Trust Funds**	**Total Funds**
Office of the Secretary	78.00	1,672,400	5,719,864	7,392,264
Division of Community Planning	61.00	3,912,046	4,720,108	8,632,154
Division of Housing and Community Development	75.00	729,856	166,847,880	167,577,736
Total	214.00	6,314,302	177,287,852	183,602,154

Source: Senate Transportation & Economic Development Appropriations Committee

DCA 3-Year Appropriations by Fund Type



Source: Senate Transportation & Economic Development Appropriations Committee

Division of Community Planning – Responsibilities and Programs

The Division of Community Planning works with local governments to implement and administer Florida's growth management laws and associated programs and services, and also provides local governments with technical support to meet local growth challenges and to help plan their future. The division works closely with local governments and other state agencies to ensure sound comprehensive planning and management of growth across the state.

The division's primary responsibilities include implementation of the programs developed by the department under the Growth Management Act, Environmental Land and Water Management Act, and State Planning Initiatives.
The Growth Management Act requires that all of Florida's 67 counties and 410 municipalities adopt and implement a comprehensive plan that guides future growth and development. All land development regulations and development permits must be consistent with the adopted comprehensive plan, and each adopted plan must meet certain procedural and substantive standards.[8] The Growth Management Act is broad in scope and provides policy direction on land use and development, coastal zone management, conservation, housing, water supply, transportation, public schools, other public facilities and capital improvements, and intergovernmental coordination. Comprehensive plans and plan amendments have a significant impact on the quality of life for Floridians. Plans and amendments are used to manage a full range of development, from very large scale development, to new airports and electrical generation facilities, to coastal development, and to rural economic opportunities.

The Division of Community Planning carries out the department's statutory growth management assignments and is responsible for the overall conduct of the program, the administration of implementing rules, and the exercise of state oversight of local comprehensive plans and plan amendments.

Local Government Comprehensive Plan Review (s. 163.3184, F.S.) - Generally, local governments may adopt amendments to their comprehensive plans twice per year. The division reviews these plan amendments and determines whether they comply with statutory requirements. Comprehensive plan amendments are initially presented as a proposal which is reviewed within a prescribed time period by regional and state agencies. Those external agencies (Regional Planning Councils, Water Management Districts, the Departments of State, Transportation, Environmental Protection,

[8] Section 163.3202, F.S.

Agriculture and Consumer Services, and the Fish and Wildlife Conservation Commission) provide comments to the division which prepares a unified report on the consistency of the proposal with legal requirements. In 2007, the agency approved 500 future land use amendments affecting over 100,000 acres. These amendments increased the number of allowable dwelling units by 240,000 and increased the square footage of commercial space by 400 million.

After receipt of the state report, the local government must decide whether to adopt, adopt with revisions, or not adopt the proposed amendment. Should the amendment be adopted, it is submitted to the division, which must reach a compliance determination, and a notice of intent is published in the local newspaper of general circulation which may be challenged by affected parties. If a plan amendment is challenged by the Department of Community Affairs or by an affected party, the matter is referred to the state's Division of Administrative Hearings for a legal proceeding. [9]

Performance measure and Unit Cost Data:

- Plan amendments packages reviewed
  - 2007-2008 Approved Standard: 610
    - 2007-2008 Actual Performance: 1185
  - 2008-2009 Requested Standard: 650
- Comprehensive Plan Review/ Plan Amendment Packages Reviewed, FY 2007-08
  - 1,185 Units Reviewed
  - $3,379 Unit Cost
  - $4,003,565 Total Expenditures

Issues:

- In 2005, the Legislature required municipalities to annually adopt a financially feasible Capital Improvements Element (CIE) schedule beginning on December 1, 2007. (House Bill 7203, passed in May 2007, postponed the submittal to December 1, 2008). The purpose of the annual update is to maintain a financially feasible 5-year schedule of capital improvements. The adopted update amendment must be received by the Department of Community Affairs by December 1 of each year. Failure to update the CIE can result in penalties such as a *prohibition on Future Land Use Map amendments*; ineligibility for grant programs such as Community Development Block Grants (CDBG), and Florida Recreation Development Assistance Program (FRDAP); or ineligibility for revenue-sharing funds such as gas tax, cigarette tax, or half-cent sales tax. To date, 60 adopted CIE updates have been submitted and another 479 are due by December 1, 2008.
- In 2005, the Legislature also required that comprehensive plans include a public school facilities element. Beginning in December 1, 2008, the CIE must include the public school facilities needed to maintain concurrency. As part of the submittal of the required public school element, an amendment to the CIE creating a Level of Service standard must also be submitted. To date, 132 adopted Public Education Facilities Elements have been submitted and another 388 PEFEs are due by December 1, 2008.[10] Failure to submit will result in a prohibition of the adoption of amendments which increase residential density and school district sanctions.
- Pursuant to s. 163.3177(6)(c), F.S., local governments that are subject to a regional water supply plan must adopt a 10-year water supply facilities work plan in their comprehensive plans. These local water supply facilities work plans must identify alternative water supply projects from among those listed in the appropriate regional water supply plan or be approved by the water management district.[11] The work plan must include public, private, and required water supply facilities to meet projected need. To date, 324 local governments are overdue in submitting their water supply facilities work plan.[12] There are no specific penalties for failure to adopt; however, future land use amendments increasing the demand for water may be open to a compliance challenge.
- In order to reduce general revenue to support the Division, the Legislature may consider authorizing the state agency to charge a nominal fee to local governments for the review of certain comprehensive plan amendments.

---

[9] Section 163.3184, F.S.

[10] Section 163.3180 (13)(d), F.S. & Department of Community Affairs: Housing and Community Development Community Planning Report.

[11] Section 373.0361(7)(b), Florida Statutes.

[12] Department of Community Affairs: Housing and Community Development Community Planning Report.

Evaluation and Appraisal Reports (s. 163.3191, F.S.) - Section 163.3191, F.S., requires local governments to periodically assess the effectiveness of their comprehensive plans and complete major plan updates to reflect changing conditions and new legislative requirements. Every seven years, local governments must submit Evaluation and Appraisal Reports (EAR) to the division prior to undertaking the required periodic revision of their plans.[13] Based on this evaluation, the report suggests how the plan should be revised to better address community objectives, changing conditions and trends affecting the community, and changes in state requirements. The department has established a phased schedule for the adoption of EARs, and municipalities are scheduled to adopt their EARs approximately 12 to 18 months after the county in which they are located adopts its EAR. This phasing allows municipalities to benefit from updated information that may be collected and analyzed by the county, particularly regarding major community-wide planning issues. Technical assistance and training to local governments on the EAR process and the review of reports and their related plan amendments comprise a major workload for division staff. The Department has completed a series of 13 workshops to discuss the preparation of the second round of Evaluation and Appraisal Reports. The workshops were scheduled approximately 18 months before the due dates for clusters of counties whose reports were due within a few months of each other. Each workshop included a presentation by Department staff on the content requirements and the process for preparing the report, as well as other presentations related to issues of regional importance. The last workshop in this series was held in Gainesville on February 27, 2008, for Alachua, Bradford, Flagler, Gilchrist, Lafayette, Madison, Marion, Putnam, Sumter, Suwannee and Union counties and their municipalities. The next round of Evaluation and Appraisal Reports will begin in late 2010, according to a schedule the Department will publish in the Florida Administrative Weekly. To help local governments prepare for this next round, the Department will conduct another series of workshops. The first two workshops in this new series are scheduled for May 27, 2009, in Hollywood (for Broward, Miami-Dade and Monroe counties and their municipalities) and May 28, 2009, for Palm Beach County and its municipalities.

Performance Measure and Unit Cost Data:

- Local government EARs review
  - 2007-2008 Approved Measure: 75
    - 2007-2008 Actual Performance: 126
  - 2008-2009 Requested Standard: 80
- Evaluation and Appraisal Report/ Local Government Evaluations and Appraisal Reports (EARs) Reviewed, FY 2007-08
  - 126 Units Reviewed
  - $3,404 Unit Cost
  - $428,954 Total Expenditures

Alternative State Review Process Pilot Program (s. 163.32465, F.S.) - The 2007 Legislature created s. 163.32465, F.S., which establishes the Alternative State Review Process Pilot Program. The pilot program is intended to provide an expedited process for comprehensive plan amendment review for the following local governments: Pinellas and Broward counties, their municipalities, and the Cities of Jacksonville, Miami, Tampa and Hialeah. Municipalities within pilot counties may elect not to participate in the pilot program by a super majority vote of the governing body. The Alternative State Review Process Pilot Project is similar to the standard comprehensive plan review process except that time frames are accelerated, there is no unified state report, and the state does not publish a notice of intent. OPPAGA is required to submit a report to the Legislature and the Governor by December 1, 2008, regarding reduced state oversight of local comprehensive planning in urban areas. The report and its recommendations must address specific identified issues. OPPAGA must consult with specified entities while preparing the report and recommendations.

Optional Sector Planning Program (s. 163.3245, F.S.) - The optional sector plan process was established as an alternative to the development of regional impact process, pursuant to s. 163.3245, F.S. Optional Sector Plans address large geographic areas (5,000 acres or more) and must be approved as a comprehensive plan amendment. The optional sector plan has two levels: a conceptual, long-term build-out overlay and detailed specific area plans. The program is limited to five pilot projects.[14] There are currently two adopted Optional Sector Plans and two active proposals.

[13] Section 163.3191, F.S.
[14] Section 163.3245, F.S.

Rural Land Stewardship Area Program (s. 163.3177(11)(d), F.S.) - The 2001 Legislature created s. 163.3177(11)(d), F.S., establishing the Rural Land Stewardship Area Program. This program provides that counties may designate rural land stewardship areas, including all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use. Within these areas, planning and economic incentives and an ability to transfer and enhance development rights encourage the implementation of innovative and flexible planning and development strategies to achieve principles of rural sustainability. Presently there is one formally approved Rural Land Stewardship Area. However, there is a strong interest in the south central portion of the state where over half of one million acres may be proposed for the program.

In 2007, the department created a Rural Land Stewardship Area Interagency Technical Advisory Team to provide technical assistance in all aspects of the Rural Land Stewardship Area Program. The Technical Advisory Team advised the Department about local government notices of intent to designate a Rural Land Stewardship Area and comprehensive plan amendments that designate a Rural Land Stewardship Area. In evaluating Rural Land Stewardship Areas, the Department will rely heavily on each agency for advice and expertise on issues within the agency's jurisdiction.

Three rule development workshops were held concerning potential revisions to the Rural Land Stewardship Area Program rules. The workshops were held on July 19, 2007, and September 24, 2007, in Lakeland, and on March 31, 2008, in Gainesville. The second draft of Rural Land Stewardship Area, Rule 9J-5.026, Florida Administrative Code was sent out July 25, 2008 and comments were due by August 15, 2008. After evaluating the comments it received, the Department filed a Notice of Change containing the proposed Rural Land Stewardship Area rule on December 19, 2008. The proposed rule was challenged in a Petition filed by the Florida Land Council, the Florida Farm Bureau, and the Florida Chamber of Commerce. In consideration of some of the issues raised in the Petition, the Department withdrew the proposed rule on January 21, 2009 for further revision and plans to notice the revised rule for another public hearing in the near future.

Local Government Comprehensive Planning Certification Program (s. 163.3246, F.S.) - The 2002 Legislature created s. 163.3246, F.S., which establishes the Certification Program which allows up to eight local governments per year to be exempted from comprehensive plan review by the division. To date, the Cities of Lakeland, Orlando, Miramar, and Freeport have been certified. To be eligible, a local government must:

- Demonstrate a record of effectively adopting, implementing, and enforcing its comprehensive plan;
- Demonstrate technical, financial, and administrative expertise;
- Demonstrate that it has adopted programs in the comprehensive plan and land development regulations that:
  - Promote infill development and redevelopment, and affordable housing;
  - Achieve effective intergovernmental coordination and address extra jurisdictional effects of development;
  - Promote economic diversity;
  - Provide and maintain public urban and rural open space and recreational opportunities;
  - Manage transportation and land uses to support public transit;
  - Redevelop blighted areas;
  - Adopt a local mitigation strategy;
  - Encourage clustered mixed-use development and urban infill; and
  - Assure protection of key natural areas and agricultural lands.

Issue:

- In 2008, the Senate Community Affairs Committee did not recommend changes to the current statutory methods for limiting state and regional review of certain comprehensive plan amendments and decided to wait until the required review of the alternative state review process pilot program is completed in December, 2008.[15]

[15] Senate Committee on Community Affairs Interim Project Report 2008-111: Local Government Comprehensive Planning Certification Program.

Military Base Encroachment Program (s. 163.3175 and s. 163.3177(6)(a), F.S.) - To protect Florida's military bases from being eliminated or reduced under the federal Base Realignment and Closure process, state and local efforts were undertaken to protect the bases from encroachment of incompatible land uses which can interfere with flight operations, live fire training, and other mission-essential activities. In 2003, the division began working with local governments and base commanders to address land use encroachment issues. In 2004, chapter 2004-230, Laws of Florida, [s. 163.3175 and s. 163.3177(6)(a), F.S.] was enacted to require that affected counties and cities amend their comprehensive plans to include criteria regarding compatibility with military installations and to coordinate changes to land use plans or regulations with base commanding officers. The division continues to work with the 14 major military installations and the 38 affected local governments to implement the anti-encroachment requirements.

Developments of Regional Impact Program (DRI) (s. 380.06, F.S.) and Florida Quality Development Program (s. 380.061, F.S.) - Under s. 380.06, F.S., a DRI is a development that has a substantial effect upon the health, safety, or welfare of citizens of more than one county due to its character, magnitude, or location. The statute provides procedural and substantive standards for large scale developments, and the division implements the program through administrative rules, is responsible for determinations of DRI status, and reviews adopted development orders. Should a development order fail to meet standards, the division may file an appeal to the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission. There are 842 approved DRIs in Florida. Additionally, The Florida Quality Developments Program was created as an alternative to the DRI program. The intent of the Florida Quality Development Program is to encourage development that has been thoughtfully planned, protects natural resources, and pays for its infrastructure. Developments that meet the Florida Quality Development standards should receive an expeditious and timely review, and may use the Florida Quality Development certification mark for promotional, informational or advertising purposes. To date, 18 developments have been designated as Florida Quality Developments.

Performance Measure and Unit Cost Data:

- Developments of Regional Impact Managed
    - 2007-2008 Approved Standard: 365
        - 2007-2008 Actual Performance: 305
    - 2008-2009 Requested Standard: 365
- Developments of Regional Impacts Review and Monitoring/ Developments of Regional Impacts Managed, FY 2007-08
    - 305 Units Reviewed
    - $2,757 Unit Cost
    - $840,960 Total Expenditures

Areas of Critical State Concern Program (s. 380.05, F.S.) - The Areas of Critical State Concern Program (ACSC) was adopted in 1972 to coordinate land development in areas possessing resources of state significance, and the division is responsible for oversight of comprehensive plans, land development regulations, and development permits in the following designated areas:

- The Big Cypress Swamp (portions of Collier and Monroe Counties);
- Green Swamp (portions of Lake and Polk counties);
- City of Key West;
- Florida Keys (Monroe County and the municipalities of Islamorada, Key Colony Beach, Layton, and Marathon); and
- The Apalachicola Bay Area (the designation of Franklin County has since been removed but the City of Apalachicola maintains the designation).

Performance Measure and Unit Cost Data:

- Area of Critical State Concern Development Orders reviewed and Final Orders Issued.
    - 2007-2008 Approved Standard: 1,315
        - 2007-2008 Actual Performance: 330
    - 2008-2009 Requested Standard: 300

- Areas of Critical State Concern Review/ Technical Assistance/ Areas of Critical State Concern Development Orders Reviewed and Final Orders Issued, FY 2007-08.
  - 330 Units Reviewed
  - $433 Unit Cost
  - $142,984 Total Expenditures

Issues:

- Section 380.0552(4), F.S., directs the Department of Community Affairs to make an annual recommendation recommend to the Administration Commission regarding the removal of the ACSC designation from the Florida Keys. In order to remove the designation, the department must determine that all local land development regulations and comprehensive plans, and the administration of such plans are: (1) adequate to protect the Florida Keys area and continue to carry out the legislative intent incorporated in s. 380.0552(2), F.S., and (2) incompliance with the Principles for Guiding Development incorporated in s 380.0552(7), F.S. For 2008, the department's recommendation to the commission was not to remove the ACSC designation.

- Due to continued desire for development in the Florida Keys, the department, in partnership with the U.S. Army Corps of Engineers and Monroe County, initiated the Florida Keys Carrying Capacity Study. The study has two computer-based components: the Florida Keys Carrying Capacity Impact/Analysis Assessment Model and the Routine Planning Tool. The Model and the Tool were developed to help evaluate the impacts of additional development in the Florida Keys and to plan the future of Monroe County. The South Florida Regional Planning Council maintains and runs simulations on the model and provides the Tool to the public.

Post-Disaster Redevelopment Plan Initiative (s. 163.3177(7)(I), F.S.) - In 1998, the Division of Community Planning worked with the Division of Emergency Management to create an initiative known as the Local Mitigation Strategy to fund local governments that chose to develop plans to mitigate natural hazards. Two years later, Congress enacted the Disaster Mitigation Act (that amended the Stafford Act), which mandates that all local governments in the United States prepare local mitigation strategies to reduce vulnerability and risk associated with future growth and development. The division is working with emergency managers to inventory, develop guidelines for, and assist pilot communities with preparation of Post-Disaster redevelopment plans. The division also works to incorporate hazard mitigation principles into comprehensive plans to reduce future damage to property and public facilities, avoid development in hazardous areas, provide for adequate public shelters, and maintain or reduce hurricane evacuation clearance times.

The Department has begun a three-year planning initiative to help coastal and inland local governments prepare post-disaster redevelopment plans. The initiative will be led by a 19-member focus group consisting of representatives of federal, state and local government, state universities and Florida planning organizations. The initiative will be conducted in three phases over a two-year period. During Phase I, the focus group will develop draft guidelines for post-disaster redevelopment planning based on information obtained through a review of relevant literature and a survey of Florida local governments. In Phase II, the group will work with a pilot community to test the effectiveness of this model plan. In Phase III, the focus group will analyze the guidelines and incorporate findings into a final Post-Disaster Redevelopment Planning guidebook, which is expected to be available for distribution in the second half of 2009. The state has commenced this initiative with funding from the Federal Emergency Management Agency and the National Oceanic and Atmospheric Administration.

Springs Protection Program (s. 369.40, F.S.) - There are more than 700 springs in Florida, of which 33 are first magnitude springs. As Florida's population grows, these springs and ground water face increasing pressure from development. Growth brings an inevitable rise in water use and extensive land use changes which can alter water quality and quantity. In recognition of the pressures faced by Florida's springs, the Florida Springs Task Force recommended strategies in 1999 for the protection and restoration of Florida's springs. Building on the work of the Task Force, the division, in conjunction with the Department of Environmental Protection, prepared a best practices manual to help local governments, developers, landowners, and citizens learn about innovative and sensible planning strategies and tools they can use to protect Florida's springs. The manual focuses on how local comprehensive plans can be used as an effective vehicle to help guide growth and development and identifies specific best management practices for managing development impacts to assist in springs' protection. The division has also developed Implementation Guidelines to provide further assistance to local governments toward protection of Florida's springs.

Over the past few years, the Department of Community Affairs has partnered with the Department of Environmental Protection to accomplish numerous springs-related initiatives. The departments have collaborated on developing a draft model code as a follow-up to the above-mentioned springs manual. The draft model code is a work in progress and has undergone peer review to identify potential implementation issues and solutions. The department conducted regional workshops to introduce the draft model code and provided an overview of how local governments can implement the code through their comprehensive plan. In 2005, the department field tested the draft model code in four pilot counties to identify impediments to implementing the code. The results of the field testing were incorporated into the 2006-2007 initiative to consolidate the model code. In 2008, the department produced *Protecting Florida's Springs: An Implementation Guidebook*, which provides technical assistance to local governments that wish to improve protection for the springs in their jurisdiction.

Waterfronts Florida Partnership Program (s. 342.201, F.S.) - The Waterfronts Florida Partnership Program helps participating communities revitalize, renew, and promote interest in their waterfront district. Waterfront revitalization targets environmental resource protection, public access, retention of viable traditional waterfront economies, and hazard mitigation. The Waterfronts Florida Partnership Program is funded in part by the Florida Department of Environmental Protection, Florida Coastal Management Program, and the National Oceanic and Atmospheric Administration. Between 1997 and 2008, the DCA designated 21 Waterfronts Florida Partnership Communities, each of which received two years of technical and financial assistance.

Issues:
- Since 1997, a total of 21 communities have been designated Waterfronts Florida Partnership Communities. Most recently in May 2007, three new communities were designated for the 2007-2009 cycle: the City of Carrabelle, the City of St. Marks and the community of Steinhatchee in Taylor County.
- Coordination of the Waterfronts Florida Partnership Program with the Stan Mayfield Working Waterfronts Program created by the 2008 Legislature.

Wekiva Parkway and Protection Program (s. 369.321(3), F.S.) - The Wekiva Parkway and Protection Act was signed into law on June 29, 2004 to authorize the construction of the Wekiva Parkway and provide protection to the Wekiva River system. There are four primary activities provided in the law: local government comprehensive planning and technical assistance, agency reporting and rule making, transportation planning for the Wekiva Parkway, and the Wekiva River Basin Commission. The division has developed guidelines to help local governments prepare the comprehensive plan amendments required by the legislation including model goals, objectives, and policies pursuant to the requirements of s. 369.321(3), F.S.

State Clearinghouse and Federal Consistency Reviews (s. 380.23, F.S.) - The DCA is one of several agencies participating in the State Clearinghouse and Federal Consistency Review program administered by the Department of Environmental Protection. Under this program, the division conducts consistency reviews of certain federal actions as well as environmental resource permits issued by the Department of Environmental Protection or the water management districts.

Transportation Planning (s. 163.3182, F.S.) - The division assists the Florida Department of Transportation (FDOT) by completing reviews of long range transportation proposals, Metropolitan Planning Agency plans, and five-year work plans. In addition, the division participates in the FDOT's Efficient Transportation Decision-Making Program.

Technical Assistance (Growth Management) - The division provides technical assistance to a range of local governments and regional planning councils. One method of assisting is the preparation of best practices guides. Topics addressed in the best practices include springs protection, transportation concurrency, planning toolkit, marina siting, and firewise communities. The division also provides direct technical assistance grants to local governments to meet statutory requirements such as updating the Capital Improvements Element of the local comprehensive plan. During FY 07-08, the major priority was to assist rural jurisdictions and funding was made available to the majority of Florida's rural counties. The division also provided financial support for regional visioning, including MyRegion.org, One Bay, Heartland 2060, and Sustainable Emerald Coast. In FY 2008-09, the Legislature appropriated approximately $1 million to the DCA to provide for technical assistance to local governments and school boards.

Performance Measures and Unit Cost Data:

- Technical assistance initiatives taken.
  - 2007-2008 Approved Standard: 350
    - 2007-2008 Actual Performance: 1,370
  - 2008-2009 Requested Standard: 450
- Technical Assistance for Local Government Planning Initiatives/ Technical Assistance Initiatives Undertaken, FY 2007-08.
  - 1,370 Units Reviewed
  - $6,483 Unit Cost
  - $8,881,984 Total Expenditures

Homeowners' Association Covenant Revival (s. 712.11, F.S., and Part III, ch. 720, F.S.) – This program creates a mechanism for homeowners associations to reinstate covenants. In general, to revive a declaration of covenants, parcel owners within a community must initiate an organizing committee composed of community members. The committee must prepare the declaration of covenants which must then be approved by a majority of affected parcel owners. The proposed revived declaration must then be sent to the Department of Community Affairs which has 60 days to review it for compliance with statutory requirements. If the proposed revived declaration is approved by the department, it must then be recorded with the Clerk of the Circuit Court in the county where the affected parcels are located.

Division of Housing and Community Development – Responsibilities and Programs

The Division of Housing and Community Development administers state and federal programs designed to provide community and economic development assistance. The division is primarily federally funded and provides grants to eligible local governments for infrastructure, revitalization, housing rehabilitation, economic development, and park lands. It assists citizens in meeting critical needs such as food, housing, health care, and utilities. The division also staffs the Florida Building Commission which implements and regulates the Florida Building Code for all structures in Florida.

Florida Communities Trust (ss. 380. 507-380.511, F.S.) - The Florida Communities Trust (FCT) is a land acquisition program that provides funding to local governments or nonprofit environmental organizations in the acquisition of community-based projects, urban open spaces, parks, and greenways that will help implement local comprehensive plans. The FCT is funded under the Florida Forever Program, created in s. 259.105, F.S., and directed to emphasize the funding of redevelopment projects in low-income areas and other disadvantaged communities, as well as projects that provide areas for direct water access and water-dependent facilities that are open to the public and that offer public access by vessels to the waters of the state. Other project categories include urban waterfront restoration projects, site reservation, and urban greenways and open spaces. The FCT is encouraged to consider alternative methods of acquisition such as conservation easements, life estates, leases and leaseback arrangements. Where lands are acquired by a nonprofit organization using funds allocated under the FCT, the lands must permanently remain in public use through mechanisms such as a reversion of title to local or state government or a conservation easement.

The Florida Communities Trust Governing Body is created in s. 380.504, F.S., and consists of the Secretary of Community Affairs or a designee, the Secretary of Environmental Protection or a designee, and four members of the public appointed by the Governor and confirmed by the Senate. The Secretary of Community Affairs is the chair of the governing body. The Governor must appoint a former elected official of a county government, a former elected official of a city government, a representative of a nonprofit organization, and a representative of the development community. Governing body members serve for terms of 4 years and receive no compensation for services, but are entitled to per diem and travel expenses incurred in the discharge of their duties.

Meetings of the governing body must be held at least quarterly and an affirmative vote of at least four members of the governing body is required to take action. The powers of the Florida Communities Trust are vested in the governing board which may delegate powers to the DCA, and the DCA is required to provide administrative, personnel, and other necessary support services. The governing board is responsible for approving projects, project plans, grants, and loans according to the rules of the Florida Communities Trust Program.

Performance Measures and Unit Cost Data[16]*:*

- Project applications processed.
  - 2007-2008 Approved Standard: 120
    - 2007-2008 Actual Performance: 118
  - 2008-2009 Requested Standard: None
- Acres acquired.
  - 2007-2008 Approved Standard: 4,844
    - 2007-2008 Actual Performance: 5,469
  - 2008-2009 Requested Standard: None
- Land Acquisition Project Grant Application Review.
  - 118 Applications Reviewed
  - $4,973 Unit Cost
  - $586,796 Total Expenditures
- Land Acquisition Grant Award Administration.
  - 5,469 Grant Awards Administered
  - $191 Unit Cost
  - $1,043,192 Total Expenditures

Issues:

- In FY 2008-2009, the Legislature reduced funding for the FCT's traditional programs from $66 million to $63 million in order to fund the Stan Mayfield Working Waterfronts Program.
- In recent years, the Legislature, the DCA, and the Department of Environmental Protection (DEP) have discussed the feasibility of merging the FCT program and the DEP's Florida Recreation Development Assistance Program (FRDAP) which are similar, although not identical, in responsibilities.

Florida Building Commission (s. 553.74, F.S.) - The Florida Building Commission (Commission) is comprised of 25 members who are appointed by the Governor and confirmed by the Senate. The Commission's purpose is to develop, adopt, and interpret the state's unified building code known as the Florida Building Code pursuant to the requirements of chapter 553, parts I through VIII, F.S., and rules adopted by the Commission and contained in Chapter 9B of the Florida Administrative Code.
Specific powers of the Commission include studying the Florida Building Code and other laws relating to the design and construction or public or private buildings, facilities or structures, making recommendations to the Florida Commission on Human Relations regarding rules relating to accessibility for persons with disabilities, and participating with the Florida Fire Code Advisory Council to provide assistance and recommendations relating to firesafety code interpretation. Other responsibilities include the administration of the Manufactured Building, Prototype Building, and Product Approval Programs. The Manufactured Building Program ensures that residential, commercial, and factory-built school buildings comply with the Florida Building Code. The Prototype Building Program ensures the structural integrity of buildings during hurricanes through product testing and approvals. The Product Approval Program enhances the effectiveness of the Florida Building Code by providing a higher standard of practice for product evaluation and ensuring uniform and consistent enforcement statewide.

The Commission is funded from a one-half cent per square foot surcharge assessed on under-roof floor space permitted by local governments. For additions, renovations, and alternations, the surcharge is assessed against the square footage being added, renovated, or altered. Each local government collecting the surcharge is authorized to retain up to 5 percent of the amount collected for costs associated with collecting and remitting the surcharge. All other collections

[16] All performance measures and unit cost data for the Department of Community Affairs and the Florida Building Commission are contained in the Department of Community Affairs Long-Range Program Plan, September 2008, available at http://www.dca.state.fl.us/publications/LRPP.pdf.

are deposited in the DCA Operating Trust Fund to be used for the administration and purposes of the Florida Building Code. Up until the 2008 Regular Session, the FBC was authorized to establish a fee schedule to pay the cost to DCA to administer and enforce building code requirements for manufactured buildings and building modules. The 2008 Legislature enacted chapter 2008-191, Laws of Florida, and provided the DCA with the authority to establish a fee schedule to cover the costs of administering and enforcing manufactured building and module code requirements.

FBC Appropriations for Fiscal Year 2007-2008

	FTE	Gen Rev	Trust Funds	Total Funds
Operating Trust Fund				
Salaries & Benefits			$1,038,358	$1,038,358
Other Personal Services			$2,251,255	$2,251,255
Contracted Services			$12,165	$12,165
Risk Management Insurance			$43,347	$43,347
DMS Human Resource Services			$7,236	$7,236
DOH Transfer			$294,414	$294,414
Grants & Donations Trust Fund				
Other Personal Services			$190,000	$190,000
TOTAL	17.00		$3,836,775	$3,836,775

Source: 2007-2008 General Appropriations Act (ch. 2007-72, L.O.F.)

FBC Appropriations for Fiscal Year 2008-2009

	FTE	Gen Rev	Trust Funds	Total Funds
Operating Trust Fund				
Salaries & Benefits			$1,044,278	$1,044,278
Other Personal Services			$1,501,255	$1,501,255
Contracted Services			$12,165	$12,165
Risk Management Insurance			$29,908	$29,908
DMS Human Resource Services			$7,137	$7,137
Grants & Donations Trust Fund				
Other Personal Services			$140,000	$140,000
TOTAL	17.00		$2,734,743	$2,734,743

Source: 2008-2009 General Appropriations Act (ch. 2008-152, L.O.F.)

Issues:

- FY 2008-2009, funding generated from the per-square foot under-roof floor space assessment used by the DCA to support the Florida Building Commission was re-directed to the Grants & Donations Trust Fund to be used to provide civil legal assistance, support regional planning councils, and fund the Front Porch Florida Initiative.
- The Florida Building Commission is expecting a funding deficit due to the downturn in the housing market which, in turn, is reducing the number of permits issued by local governments for new construction, renovations, additions, and rehabilitation projects. The Florida Building Commission is implementing cost-saving measures such as reductions in meetings, and teleconferencing where appropriate.

Issues to be addressed pursuant to chapter 2008-191, Laws of Florida:

- Amendments to the list of entities authorized to conduct or perform product evaluations.
- Inclusion of thermal efficiency standards to increase the energy performance of new buildings.
- Adoption of a rule to implement cost-effectiveness test for proposed increases in energy efficiency that will ensure energy efficiency increases resulting in a positive net financial gain.

  - The text of the rule must be submitted to the Legislature in the 2009-2010 Annual Report. The rule must provide for an effective date of July 1, 2009.

Florida Building Code (s. 553.73, F.S.) - The Florida Building Code (FBC) contains by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities. The FBC, which is adopted, modified, updated, interpreted, and maintained by the Florida Building Commission, is enforced statewide by local governments to ensure consistent administration from one jurisdiction to the next throughout the state. The Florida Fire Prevention and Life Safety Code (Fire Code) is included in the FBC by reference, but is adopted, modified, updated, interpreted, and maintained by the Department of Financial Services. Conflicts between the FBC and the Fire Code are resolved in coordination with and with the cooperation of the State Fire Marshal.

The FBC is required to contain provisions and requirements relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging, food sales and service facilities, health care facilities, swimming pools, and correctional facilities. The FBC must also include standards and criteria for residential swimming pool barriers, pool covers, latching devices, door and window alarms, and other equipment that may be required by law.

The FBC must be updated by the Florida Building Commission every three years in accordance with the requirements provided in chapter 553, using the current version of specified international codes as the foundation for the FBC. Technical amendments to the FBC may be approved by the Florida Building Commission once each year under certain conditions.

Chapter 2008-191, Laws of Florida, required the Florida Building Commission to produce an insignia to be attached to all newly constructed manufactured buildings, including factory-built schools, develop minimum criteria to be developed by rule for manufacturer's data to be affixed to all newly constructed manufactured buildings prior to building leaving the plant, and adopt rules to address procedures and qualifications for approval of third-party plan review and inspection agencies for manufactured buildings.

Performance Measures and Unit Cost Data:

- People trained and served by the Florida Building Code.
  - 2007-2008 Approved Standard: 10,000
    - 2007-2008 Actual Performance: 3,122
  - 2008-2009 Requested Standard: None
- Florida Building Code amendments promulgated.
  - 2007-2008 Approved Standard: 1,000
    - 2007-2008 Actual Performance: 270
  - 2008-2009 Requested Standard: None
- Permits issued for manufactured buildings.
  - 2007-2008 Approved Standard: 36,000
    - 2007-2008 Actual Performance: 33,716
  - 2008-2009 Requested Standard: 36,000
- Building Code Industry Training/People Trained/Served.
  - 3,122 Units Trained/Served
  - $1,334 Unit Cost
  - $4,164,078 Total Expenditures
- Code Promulgation/Code Amendments Promulgated.
  - 270 Units Promulgated
  - $4,284 Unit Cost
  - $1,156,688 Total Expenditures
- Regulation of Manufactured Buildings/Permits Issued for Manufactured Buildings.
  - 33,716 Units Issued
  - $14 Unit Cost

- $462,675 Total Expenditures

Front Porch Florida Initiative (not created in statute, no rules) - Front Porch Florida, an initiative established by Governor Bush and modeled after the Front Porch Alliance of Indianapolis, began in 1999 with the designation of six communities as “Front Porch” communities through a competitive application process. The initiative, which was not created in statute, began as part of the budget process and was to be administered by the Office of Urban Opportunity (OUO) created within the Office of Tourism, Trade, and Economic Development in the Executive Office of the Governor. Section 14.2015, F.S., provided that the purpose of the OUO was to administer the Front Porch Florida Initiative, a comprehensive, community-based, urban core redevelopment program to empower urban core residents to craft solutions to the unique challenge of each designated community. In 2004, the OUO was moved to the Division of Housing and Community Development but its mission remained unchanged.

The Front Porch Florida Initiative provides distressed communities with the means to renew and revitalize their neighborhoods. Education, training, technical assistance, and access to resources provides these neighborhoods with viable and attractive places to live, work, and play. The technical and program assistance available through the Front Porch Initiative offers communities assistance in a holistic, collaborative planning process, partnerships with local governments to help implement the community’s plans, and coordinated technical assistance to the neighborhood during both planning and implementation phases.

Performance Measures and Unit Cost Data:

- Front Porch Florida Technical Assistance Initiatives taken.
  - 2007-2008 Approved Standard: 10
    - 2007-2008 Actual Performances: 0
  - 2008-2009 Requested Standard: None.
- No unit cost data provided.

Issues:

- The annual appropriation for the Front Porch Florida Initiative has decreased steadily since the Initiative was implemented in 1999. In the first year, the annual appropriation was $5.4 million, but in FY 2008-2009, the appropriation was $1.75 million.
  - The OUO is encouraging the designated communities to seek other financial resources to support Front Porch operations to remove reliance on state funds.
- Because of a lack of statutory guidance, the OUO has developed a process for awarding grants to the designated communities on a competitive basis based on criteria not developed in rule because the DCA does not have rulemaking authority for the initiative.
- No statutory accountability requirements are in place to govern the reimbursement procedures for grant recipients.
- Since 1999, only 20 communities in Florida have been designated as “Front Porch” communities and only 18 of those are active at this time.

Small Cities Community Development Block Grant Program (ss. 290.0401-290.048, F.S.) - The Florida Small Cities Community Development Block Grant (CDBG) Program was created pursuant to the enactment of the federal Housing & Community Development Act of 1974, as amended, to administer an annual federal award designed to assist small or rural local governments not included as part of the U.S. Department of Housing and Urban Development’s Urban Entitlement Program (Community Development Block Grants). Projects must benefit low-to-moderate income citizens in non-entitlement cities with fewer than 50,000 residents and counties with fewer than 200,000 residents, or cities that opt out of an urban entitlement program. To date, 238 communities qualify for the Small Cities CDBG program.

For FY 2008-2009, Florida received $27.7 million to fund a variety of projects which aid in the development of viable communities by providing decent housing, a suitable living environment and expanding economic opportunities, primarily for persons of low and moderate incomes. Awards are made in four categories: commercial revitalization (downtown improvements), economic development (job creation), housing rehabilitation, and neighborhood revitalization (infrastructure). Examples of activities that are eligible for Small Cities Community Development Block Grant funding include rehabilitation/preservation of housing, water and sewer improvements, street improvements, economic development activities, downtown revitalization, parks and recreation, and drainage improvements.

Performance Measures and Unit Cost Data:

- Jobs created or retained.
    - 2007-2008 Approved Standard: 140
        - 2007-2008 Actual Performance: 307
    - 2008-2009 Requested Standard: 140
- Local Job Creation and Retention/Jobs Created/Retained.
    - 307 Units Created/Retained
    - $1,330 Unit Cost
    - $408,353 Total Expenditures
- Housing units rehabilitated or replaced.
    - 2007-2008 Approved Standard: 718
        - 2007-2008 Actual Performance: 986
    - 2008-2009 Requested Standard: 146
- Affordable Housing/Housing Units Rehabilitated or Replaced.
    - 986 Units Rehabilitated or Replaced
    - $1,006 Unit Cost
    - $991,715 Total Expenditures
- People trained/served under Small Cities CDBG and Special District programs.
    - 2007-2008 Approved Standard: 535
        - 2007-2008 Actual Performance: 759
    - 2008-2009 Requested Standard: 450 (Small Cities CDBG program only)
- Training and Technical Assistance/People Trained/Served.
    - 759 Units Training/Service
    - $4,381 Unit Cost
    - $3,325,162 Total Expenditures
- Public facilities built or improved.
    - 2007-2008 Approved Standard: 30
        - 2007-2008 Actual Performance: 42
    - 2008-2009 Requested Standard: 44
- Public Infrastructure Improvement/Public Facilities Built or Improved.
    - 42 Units Built or Improved
    - $26,390 Unit Cost
    - $1,108,387 Total Expenditures

Issue:

- Housing and Economic Recovery Act of 2008 (federal).
    - $3.92 billion nationwide to provide emergency assistance for the redevelopment of abandoned or foreclosed homes under the Neighborhood Stabilization Program.
    - States will have 18 months to use funds after receipt or the federal government will recapture funding for return to the taxpayers.
    - Funds to be prioritized based on areas of greatest need: Percentage of foreclosures and percentage of subprime mortgages.
    - State allocation of $541 million will be split between Small Cities Program and the CDBG entitlement program.
        - The DCA will receive $91.1 million for distribution under the Small Cities Program and must submit the state action plan by December 1, 2008.
        - $450 million will be distributed directly to 48 local governments.

- Eligible uses of funding include the purchase of foreclosed homes, the purchase of land and property including the creation of land banks, demolishing or rehabilitating abandoned properties, and providing down payment and closing cost assistance to persons meeting certain income requirements.

Small Cities Community Development Block Grant Loan Guarantee Program (s. 290.0455, F.S.) - The Small Cities Community Development Block Grant Loan Program is authorized under s. 108 of Title 1 of the Housing and Community Development Act of 1974, as amended, and as further amended by s. 910 of the Cranston-Gonzalez National Affordable Housing Act. The U. S. Department of Housing and Urban Development (HUD) sells bonds on the private market and funds Section 108 loans through the states using the bond proceeds. The program offers local governments a source of financing for economic development, large-scale public facility projects, and public infrastructure.

All applications for loans must be submitted by the DCA to the HUD for loan approval. The maximum amount of loan guarantee may be limited to $7 million, and the total amount of loan guarantee commitments statewide may not exceed more than five times the amount of the most recent grant received by the DCA under the Small Cities Community Development Block Grant Program. Activities eligible for loans include but are not limited to acquisition of land for economic development purposes, rehabilitation of real property owned or acquired by the public entity seeking the loan, clearance, demolition, removal and remediation of environmentally contaminated property, and housing rehabilitation.

Issue:
- Under-utilized program – only the City of Key West and the City of Alachua have loans under the program.

Community Development Block Grant Disaster Recovery Program (Emergency Rules 9BER05-2 and 9BER06-1, F.A.C.) - In 2004, the federal Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act appropriated $150 million in Community Development Block Grant Funds to nine states and the territory of Puerto Rico to provide disaster relief assistance. The 2004 Act provided a basic allocation formula that set aside 50 percent of the appropriated amount for unmet housing needs; 25 percent to unmet business needs; and 25 percent to unmet public assistance needs. Each state or territory received an allocation based on its proportion of the unmet need aggregated from all covered disasters within that state or territory to the sum of the unmet need for all states or territories with declared disaster. Florida received $100.9 million due to the effects of Hurricanes Charley, Frances, Ivan and Jeanne.

In December of 2005, the federal Department of Defense Appropriations Act appropriated $11.5 billion in Community Development Block Grant funds for necessary expenses related to disaster relief assistance as a result of Hurricanes Katrina, Rita and Wilma. The Act provided that the Governor of each state designate the entity to administer the appropriated funds and provided that the U.S. Department of Housing and Urban Development (HUD) intended the funds to be used in meeting unmet housing needs in areas of concentrated distress. “Unmet housing needs” was defined as the needs of uninsured homeowners whose homes had suffered major or severe damage, and “concentrated distress” was defined as the total number of housing units with major or severe housing damage in counties where half or more of the housing units had major or sever damage. Florida’s appropriation under the Act was $82 million.

In June 2006, the federal government approved Chapter 9 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, which contained a $5.2 billion appropriation in Community Development Block Grant funds for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the areas most impacted and distressed due to the effects of Hurricanes Katrina, Rita, and Wilma. The Act provided that the Governor of each state designate the entity to administer the appropriated funds. Florida received approximately $100 million including a $19.3 million set-aside for the repair, rehabilitation, and reconstruction of the affordable housing rental stock, including public and other HUD-assisted housing.

The Disaster Recovery Program’s three main objectives are to provide a benefit to low and moderate income households, provide for activities that aid in the prevention or elimination of slums or blighted communities, and provide for the urgent needs of communities based on existing conditions posing a serious and immediate threat to the health and welfare of the community. A small portion of program funds have been dedicated to technical assistance activities designed to increase the administrative capacity of eligible communities, educate small business owners on the importance of business recovery plans, and facilitate an assessment of housing needs in the hurricane affected areas. cities and counties, entitlement and non-entitlement, as well as federally recognized Indian Tribes, are eligible to apply for assistance.

Community Services Block Grant Program (Rule 9B-22.002- thru 9B-22.011, F.A.C.) - The federal Community Services Block Grant Program is administered by the US. Department of Health and Human Services to provide financial assistance to the states and local communities to reduce poverty and re-vitalize low-income communities. Florida's Community Services Block Grant Program is administered by the DCA pursuant to the authority provided in s. 163.03, F.S. and rules contained in Chapter 9-B of the Florida Administrative Code. At least 90 percent of the annual federal award is distributed according to the Community Services Block Grant State Plan required under the federal law which must cover at least one fiscal year but not more than two fiscal years, and identify purposes such as how the federal allocation will be used and how the needs of young people in low-income communities will be addressed through specific youth development programs.

The Community Services Block Grant Program serves two purposes: (1) to provide emergency financial assistance for education, nutrition, housing, health care, and employment; and (2) to provide longer term strategies for the state's poorest citizens and low-income communities to achieve a higher level of self sufficiency. To ensure self-sufficiency, the DCA may provide educational assistance such as tuition, books, literacy classes, job readiness preparation, child day care, transportation assistance, job counseling, placement, and training services. For elderly people, the program may assist them to continue to live in their homes by providing meals, food, housekeeper services, rent or mortgage assistance, medicine, and transportation.

The Community Services Block Grant Program is a formula-driven grant based on poverty level and the percentage of low-income persons within the county. Households may not exceed 125 percent of the federal poverty guideline and the grants require at least a 20 percent match for funds received by the grantee. At least 2 percent of the match must be supplied by the grantee and not less than 10 percent of the match must be in cash. Services are delivered through a network of 34 local governments and non-profit agencies in all counties except Monroe and Glades. The DCA has averaged $18 - $19 million in Community Services Block Grant Funds each year since 2001.

Performance Measure and Unit Cost Data:

- Households served.
  - 2007-2008 Approved Standard: 136,000
    - 2007-2008 Actual Performance: 161,996
  - 2008-2009 Requested Standard: 136,000
- Community Services/Households Served
  - 161,996 Units Served
  - $116 Unit Cost
  - $18,796,597 Total Expenditures

Low-Income Home Energy Assistance Program (s. 409.508, F.S.) - The federal Low-Income Home Energy Assistance Act (LIHEAP) was enacted in 1981 and provides grants to the states to assist low-income households paying a high proportion of household income for home energy needs. The state's Low-Income Home Energy Assistance Program receives an annual federal award from the U.S. Department of Health and Human Services to provide non-competitive formula-based grants to local governments and non-profit agencies to assist eligible households[17] in the costs of home heating and cooling. The DCA reports that for federal fiscal year 2008, the state will receive about $26 million in LIHEAP funds of which 15 percent will be transferred to the Weatherization Assistance Program, 6 percent will be transferred to the Department of Elder Affairs for the Emergency Home Energy Assistance Program, and 90 percent of funds will be passed through to the local providers. Assistance may be provided in the form of cash, vouchers, certificates, or direct payments to electric or natural gas utilities or other energy suppliers and operators of low-rent, subsidized housing on behalf of eligible households. Priority is to be given to households having at least one

[17] The Office of Community Services, Administration for Children & Families, in the U.S. Department of Health and Human Services, reports an eligible household's income may not exceed 150 percent of the poverty level or 60 percent of the state median income, and that the states may not set income eligibility standards below 110 percent of the poverty level.

elderly or handicapped individual and to households with the lowest incomes. The program has three categories of assistance: home energy assistance, crisis assistance, and weather related or supply shortage emergency assistance.

Performance Measure and Unit Cost Data:

- Households served.
    - 2007-2008 Approved Standard: 79,800
        - 2007-2008 Actual Performance: 80,551
    - 2008-2009 Requested Standard: 79,800
- Home Energy Assistance/Weatherization and Utility Assistance/Households Served.
    - 80,551 Units Served
    - $334 Unit Cost
    - $26,934,136 Total Expenditures

Issue:

- The DCA, in conjunction with the Florida Energy Affordability Coalition,[18] must identify and review issues relating to the program to provide recommended statutory changes, if any, to the Legislature on or before January 1, 2009 (Chapter 2008-191, Laws of Florida.).

Low-income Emergency Home Repair Program (s. 420.36, F.S.) - In 1992, the Legislature created the Low-income Emergency Home Repair Program (LIEHRP) as part of the "William E. Sadowski Affordable Housing Act." The program was created within the DCA to assist persons with incomes at or below 125 percent of the federal poverty guidelines, with special emphasis on the elderly and physically disabled. Allowable repairs include correcting deficiencies in support beams, load-bearing walls, and floor joists; egress or physically disabled accessibility repairs; electrical repairs; plumbing and well repairs (including pump and lines); and repairs to deteriorating walls, floors, and roofs. Grantees must provide an in-kind or cash match of at least 20 percent of the funds granted, and administrative expenses may not exceed 10 percent of the total grant funds.

The program is funded through legislative appropriations which are distributed to the counties. Each county should receive a $3,000 set-aside that is deducted from the total amount appropriated by the Legislature. Remaining funds are distributed through a formula that divides the funds remaining by the total poverty population of the state. That quotient is multiplied by each county's share of the poverty population, and that amount is added to the $3,000 base to determine the county's allocation.

Issue:

- From FY 1998-1999 thru FY 2002-2003, the LIEHRP received about $2.5 million in documentary stamp tax revenues annually to fund program needs. Beginning in FY 2003-2004, the Legislature began reducing appropriations to the program and in FY 2006-2007, no funding was provided. For FY 2007-2008, the Department of Financial Services was directed to transfer $1 million from the Insurance Regulatory Trust Fund to the Energy Consumption Trust Fund within the DCA to fund the LIEHRP,[19] and in FY 2008-2009, no funds were provided.

Weatherization Assistance Program (s. 163.03 and ss. 409.509-409.5093, F.S.) - Section 163.03(3), F.S., provides the DCA with the authority to adopt rules to implement the federal Weatherization Assistance Program funded through the U.S. Department of Energy, and sections 409.509-409.5093, F.S., provide the DCA with the authority to implement the Weatherization Assistance Program for low-income residences which is limited to households where the household income is at or below 125 percent of the federally established poverty level. For 2008, the federal poverty level for a

---

[18] The Florida Energy Affordability Coalition charter partners include the Florida Council on Aging, the Florida Association for Community Action, Florida Association of Area Agencies on Aging, Florida Department of Elder Affairs, Florida Electric Cooperatives Association, Florida Municipal Electric Association, Florida Power & Light Company, Florida Public Service Commission, Gulf Power Company, Progress Energy Florida, The Salvation Army, Tampa Electric Company, and the DCA. Information on the coalition may be found at www.fleac.net.

[19] s. 7 of chapter 2007-126, Laws of Florida (My Safe Florida Homes Act).

family of four is $21,200[20]. The Weatherization Assistance Program is funded through the U.S. Department of Energy and receives an annual federal award to serve low-income families by ensuring the installation of materials or measures to improve the thermal efficiency of a residence. The federal appropriation for fiscal year 2008-09 is $6.3 million. Funds are distributed to each county and the two federally recognized Indian Tribes on an equal base amount, with additional allocations based on a county's climate zone location within the state and based on the county's percentage of residents at or below the federal poverty guidelines.

Performance Measure and Unit Cost Data:

- Total energy saved by recipients of Weatherization Assistance program services.
  - 2007-2008 Approved Standard: 2.8 million MBTUS (Million British Thermal Unit) over 10-year period or 280,000 MBTUS annually.
    - 2007-2008 Actual Performance: 299,523 MBTUS saved.
  - 2008-2009 Requested Standard: 280,000 MBTUS
- Unit Cost Data included in unit cost data for Low-Income Home Energy Assistance Program.

Issue:

- The DCA, in conjunction with the Florida Energy Affordability Coalition,[21] must identify and review issues relating to the program to provide recommended statutory changes, if any, to the Legislature on or before January 1, 2009 (Chapter 2008-191, Laws of Florida).

Florida Access to Civil Legal Assistance (ss. 68.094-68.105, F.S.) - The 2002 Legislature enacted Chapter 2002-288, Laws of Florida, to create the "Florida Access to Civil Legal Assistance Act" to establish an administrative framework for the use of public funds to enhance availability of civil legal assistance to eligible persons with an income equal to or below 150 percent of the federal poverty guidelines. The DCA was provided with the powers to contract with a statewide not-for-profit organization that provides funding for civil legal assistance to the poor to allocate funds to not-for-profit legal aid organizations. The not-for-profit must be a charitable organization that meets the qualifications of s. 501(c)(3) of the Internal Revenue Code.

The act requires that the contract must provide for distribution of at least 80 percent of the funds appropriated by the Legislature annually by county on a per capita basis using the number of persons with an income equal to or below 125 percent of the federal poverty guidelines. Up to 15 percent of the funds must be distributed annually to statewide and regional not-for-profit legal aid organizations, and up to 5 percent of the funds may be used for administrative costs. Eligible legal services include family law, juvenile law, entitlements to federal government benefits, protection from domestic violence, elder and child abuse, and immigration matters. Programs that receive funding are eligible to access the SUNCOM Network Services and the DCA is billed directly. Unused funds are not carried forward and must be returned to the DCA for transfer to the State Treasury to the credit of the fund from which they were appropriated.

Performance Measure:

- Clients served.
  - 2007-2008 Approved Standard: 2,700
    - 2007-2008 Actual Performance: 19,315
  - 2008-2009 Requested Standard: 2,700

Issue:

- Until the last fiscal year, the Civil Legal Assistance program received between $1 - $2.5 million in General Revenue. For FY 2007-2008, funding was provided from the DCA's Administrative Trust Fund and in FY 2008-2009, funding generated from the per-square foot under-roof floor space assessment used by the

[20] **Federal Register**: January 23, 2008 (Volume 73, No. 15, pg. 397(1).

[21] The Florida Energy Affordability Coalition charter partners include the Florida Council on Aging, the Florida Association for Community Action, Florida Association of Area Agencies on Aging, Florida Department of Elder Affairs, Florida Electric Cooperatives Association, Florida Municipal Electric Association, Florida Power & Light Company, Florida Public Service Commission, Gulf Power Company, Progress Energy Florida, The Salvation Army, Tampa Electric Company, and the DCA. Information on the coalition may be found at www.fleac.net.

DCA to support the Florida Building Commission was re-directed to the Grants & Donations Trust Fund to be used to provide civil legal assistance, support regional planning councils, and fund the Front Porch Florida Initiative.[22]

Special District Information Program (s. 189.412, F.S.) - The Special District Information Program is created in s. 189.412, F.S., which also provides the DCA with specific duties including, but not limited to, the collection and maintenance of special district noncompliance status reports from other state entities, the maintenance of a master list of independent and dependent special districts, the publication and updating of the “Florida Special District Handbook”, facilitating and coordinating the communication among state agencies regarding special districts, and providing assistance to local general-purpose governments and state agencies in collecting delinquent reports or information and help special districts comply with reporting requirements. Section 189.425, F.S., provides the DCA with the authority to adopt rules to implement the provisions of the “Uniform Special District Accountability Act of 1989,” and s. 189.427, F.S., provides the DCA with the authority to assess an annual fee of not more than $175 to pay for one-half of the costs incurred by the department in implementing the Special Districts Information Program.

The division reports the following special district statistics as of August, 2008:

- 1,605 special districts exist statewide.
  - 610 dependent special districts
  - 1,005 independent special districts
- 1,546 of the special districts are single county special districts and 69 are multi-county special districts.
  - 578 special districts function as community development districts.
  - 191 special districts function as community redevelopment districts.
  - 96 special districts function as drainage and water control districts.
  - 92 special districts function as public housing authorities.
  - 66 special districts function as fire control and rescue districts.
  - 63 special districts function as soil and water conservation districts.
  - 5 special districts function as water management districts.

Community development districts (CDDs) are the most common of the special districts and are created to finance, construct, and maintain community or subdivision infrastructure improvements. Each CDD operates as an independent taxing authority with its own budget and specific, but limited, powers. Primarily, a CDD issues tax-exempt bonds to construct infrastructure such as roads and water/sewer lines, and pays for itself by levying special assessments to the property owners within the community or subdivision to pay for infrastructure costs and maintenance. The CDDs are each governed by a 5-member board of supervisors who are elected by the landowners within the community or subdivision.[23]

Performance Measure and Unit Cost Data:

- People trained/served under Special Districts and Small Cities CDBG programs.
  - 2007-2008 Approved Standard: 535
    - 2007-2008 Actual Performance: 759
  - 2008-2009 Requested Standard: 385 (Special District Program only.)
- Unit cost data included with the Small Cities CDBG program unit cost data.

Stan Mayfield Working Waterfronts Program (s. 380.5105, F.S.) - The Stan Mayfield Working Waterfronts grant program was created by the 2008 Legislature for the purpose of funding projects that restore and preserve working waterfronts. The Legislature provided that 2.5 percent of the bond proceeds received from the sale of Florida Forever bonds be used by the Florida Communities Trust to acquire land directly used for the commercial harvest of marine organisms or saltwater products by state-licensed commercial fishermen, aquaculturists, or business entities, including piers, wharves, docks, or other facilities operated to provide waterfront access. Bond proceeds may also be used to acquire land used for exhibitions, demonstrations, educational venues, civic events, and other purposes that promote

[22] See section 32 of chapter 2008-153, Laws of Florida, and Line Item 1606A of the 2008 General Appropriations Act.
[23] Chapter 190, F.S., is the “Uniform Community Development District Act.”

and educate the public about the economic, cultural, and historical heritage of Florida's traditional waterfronts. The current level of funding provides $7.5 million annually to the program.

Performance Measures:

- To be developed.

Issues:

- The DCA and the Department of Agriculture and Consumer Services have jointly developed proposed rules to govern the grant application process for the Working Waterfronts Program, including eligibility requirements, the application process, project evaluation, ranking, selection criteria, grant contract requirements, management plan requirements, and title and acquisition procedures including lease agreements and title transfers.
  - Because this program is both a fee simple and a less-than-fee acquisition program, it is unclear how the distinction between real property and the businesses located on the real property will be handled, and how that distinction will apply to issues such as ownership of the business, payment of property taxes, or use limitations contained in less-than-fee acquisition contracts when title is transferred to a local government or to a non-profit working waterfront organization existing under the provisions of Chapter 501(c)(3) of the Internal Revenue Code.
- Coordination of the Stan Mayfield Working Waterfronts Program with the Waterfronts Florida Partnership Program.

Advisory Councils or Committees

Century Commission for a Sustainable Florida (s. 163.3247, F.S.) - The Century Commission for a Sustainable Florida was created in 2005 as a standing body charged with helping the state to envision and plan for the future using a 25-year and a 50-year planning horizon. The Century Commission must submit an annual report containing specific recommendations for addressing growth management in the state. The report, which must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives, must also contain discussions regarding the need for intergovernmental cooperation and the balancing of environmental protection with future development, as well as recommendations regarding dedicated funding sources for sewer facilities, water supply and quality, transportation facilities, and educational infrastructure.

The Century Commission is composed of 15 members representing local governments, school boards, homebuilders, developers, and the business, agriculture, and environmental communities. Five members are appointed by the Governor, five members are appointed by the President of the Senate, and five members are appointed by the Speaker of the House of Representatives. Meetings must be held at least three times a year in different regions of the state to collect public input and the DCA provides staff and other resources necessary for the Century Commission to accomplish its goals. The Legislature appropriated $250,000 in documentary stamp tax revenues to the Grants and Donations Trust Fund in fiscal year 2008-209 to fund the Century Commission.

Issues:

- Issues being considered by the Century Commission include the following:
  - Statewide Water Summit – to develop public policy recommendations on long-term water conservation, use and supply planning for environmental, agricultural, and public consumption purposes.
  - Statewide Cooperative Conservation Blueprint[24] – development of a database that uses science and spatial data to show critical environmental resources.
  - Energy Security and Greenhouse Gas Emissions Reduction – monitor the progress of Florida's energy and environmental programs to provide additional input where appropriate.

Florida Community Assistance Advisory Council (s. 290.048(7), F.S.) - The general purpose of the Florida Community Advisory Council is to advise the Department of Community Affairs in the administration of the federal

[24] Being developed by the GeoPlan Center at the University of Florida and the Florida Natural Areas Inventory at Florida State University.

Community Services Block Grant, Low Income Home Energy Assistance, and Weatherization Assistance programs. The Advisory Council reviews the annual state plans for the programs as well as any proposed rule revisions. Membership on the Advisory Council is broadly representative of individuals, organizations, and agencies, including but not limited to, those that represent low-income persons, particularly the elderly, disabled, homeless, Native Americans, and migrant and seasonal farmworkers. The Advisory Council meets twice a year and all meetings are publicly noticed.

Funding

***Operating Trust Fund* -** The Operating Trust Fund within the department is the repository for fees and penalties assessed by the department for the operation of the Special District Information Program, fees and penalties assessed by the department for operation of hazardous material facilities, and fees and penalties assessed by the department related to building code responsibilities. With respect to the Special District Information Program, s. 189.427, F.S., authorizes the department to establish a schedule of fees that may not exceed $175 per year to pay one-half of the costs incurred by the department in administering the program. Sections 252.85 and .86 F.S., authorizes the department to collect certain fees and penalties from owners and operators of hazardous waste facilities. Section 553.721, F.S., authorizes the department to assess a surcharge of 1/2 penny per square foot under-roof floor space for construction permitted by local government. For additions, renovations, and alterations, the surcharge is assessed against the square footage being added, renovated, or altered. The department is also authorized under s. 553.37, F.S., to establish a schedule of fees that will pay the cost of administering and enforcing requirements relating to the construction, inspection, and certification of manufactured buildings and building modules.

***Grants & Donations Trust Fund* -** The Grants and Donations Trust Fund within the department receives documentary stamp tax revenues each year in an amount not to exceed $3.25 million. The majority of the documentary stamp tax revenue is used to provide technical assistance and technical assistance grants to local governments, including school boards, to ensure compliance with the state's growth management laws. A portion of the documentary stamp tax distribution funds the Century Commission.

***Administrative Trust Fund* -** The Administrative Trust Fund within the department receives revenues from assessments against federal and state trust funds for centralized executive and administrative services. The assessment rates are developed under a negotiated annual Cost Allocation Plan approved by the department's federal cognizant agency, the U.S. Department of Justice.

***Florida Small Cities Community Development Block Grant Trust Fund* -** The Small Cities Block Grant Trust Fund is funded annually by the U.S. Department of Housing and Urban Development.

***Community Services Block Grant Trust Fund* -** The Community Services Block Grant Trust Fund is funded annually by the U.S. Department of Housing and Urban Development.

***Energy Consumption Trust Fund* -** The Energy Consumption Trust Fund is funded annually by the U.S. Department of Energy.

***Low Income Home Energy Assistance Program Block Grant Trust Fun* -** The Low Income Home Energy Assistance Program Block Grant Trust Fund is funded annually by the U.S. Department of Health and Human Services.

Florida Communities Trust Fund - .The Florida Communities Trust Fund within the department receives disbursements from the Land Acquisition Trust Fund for salaries and expenses related to the administration of the Florida Communities Trust Program.

***Florida Forever Trust Fund* -** The Florida Forever Trust Fund within the department is the repository for the proceeds of bonds issued under the Florida Forever program to be used for the purposes of the Florida Communities Trust program.

General Revenue - The department receives general revenue each year as appropriated by the Legislature in the General Appropriations Act.

Division of Emergency Management – Responsibilities and Programs

The Division of Emergency Management (DEM) operates as a separate budget entity whose Director reports directly to the Governor. The division is statutorily required to enter into a service agreement with the Department of Community Affairs (DCA) for professional, technological, and administrative support services.[25]

DEM is responsible for maintaining a statewide program of emergency management. This includes coordination with the federal government, other state agencies, county and municipal governments, school boards, and private agencies.[26] The division directs and controls the state's emergency response and recovery operations through the operation of a State Emergency Operations Center (SEOC). The division also works closely with the Department of Law Enforcement (FDLE) to protect against acts of terrorism, and for the initial response to and recovery from such acts.[27] DEM is the State Administrative Agency (SAA) responsible for administering federal disaster response, recovery, and mitigation program grant funding; federal homeland security programs grant funding; and state funds appropriated for emergency management and domestic security purposes.

State Emergency Management Act – (Ch. 252, Part I, F.S.)

The State Emergency Management Act establishes the framework for emergency management in Florida; confers certain emergency powers to the Governor, DEM, and the governing body of each political subdivision of the state; broadly authorizes the establishment of organizations and measures necessary to carry out the provisions of the Act; provides the means to assist in the prevention or mitigation of emergencies; and requires that the emergency management functions of the state to be coordinated with comparable functions of the federal government.[28]

The Act requires DEM to prepare a state comprehensive emergency management plan that is integrated and coordinated with federal plans and programs. The plan must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters. DEM is required to work closely with local governments and emergency management agencies and organizations in preparing and maintaining the plan. The plan is operations oriented and contains the following components:[29]

- An evacuation component that includes specific regional and interregional plans to facilitate the safe movement of evacuees, provisions for sufficient, reasonably priced fueling locations along evacuation routes, directions to safe shelter facilities, and policies and strategies for emergency medical evacuations;
- A shelter component that includes specific regional and interregional plans to ensure the availability of adequate public shelter space in each region of the state;
- A post-disaster response and recovery component that provides for post-disaster strategies for response and recovery organization, procedures, chain of command, roles and responsibilities, a comprehensive communications plan, rapid damage assessment, urban search and rescue, medical care, coordination of volunteers, and accepting and distributing donated funds and goods;
- Provisions for:
  - Addressing necessary aspects of preparedness, response, recovery, and mitigation,
  - Coordinated and expeditious deployment of state resources including the Florida National Guard;
  - Establishment of a communications and warning system to ensure the state's population and emergency management agencies are warned of developing emergency situations;
  - Establishment of guidelines and schedules for exercises that evaluate the state's ability to respond to emergencies and disasters; and
- An assignment of lead and support responsibilities and functions to state agencies and personnel.

[25] Section 20.18, F.S.
[26] Section 252.35, F.S.
[27] Section 943.03101, F.S.
[28] Section 252.32, F.S.
[29] Section 252.35, F.S.

The Act requires DEM to adopt standards and requirements for county emergency management plans and to assist in preparing, maintaining, and periodically reviewing those plans. In addition, DEM is required to:

- Prepare executive orders, proclamations, and rules for issuance by the Governor to cope with emergencies and disasters;
- Coordinate federal, state, and local emergency management activities and take all other steps necessary to ensure the availability of adequately trained and equipped emergency management personnel before, during, and after emergencies and disasters;
- Ascertain emergency plan requirements for equipment and supplies, plan for, and either procure or ensure availability of necessary supplies, medicines, materials, and equipment;
- Institute statewide public awareness programs that promote the self sufficiency of citizens during the first 72 hours following a disaster and provide relevant information regarding statewide disaster plans, evacuation routes, fuel suppliers, and shelters;
- Conduct community education and outreach relating to the registry of persons with special needs and special needs shelters;
- Coordinate with the Department of Education and the Agency for Persons with Disabilities to conduct educational outreach to persons with limited English language skills and persons who are in need of assistance not defined under special needs criteria;
- Adopt strategies, with the assistance of the Department of Agriculture and Consumer Services, relating to the evacuation and sheltering of persons with pets; and
- Make recommendations to the Legislature, building code organizations, and political subdivisions relating to zoning, building, and land use controls; mobile home safety measures; and other measures designed to eliminate emergencies or reduce their impact.

State Emergency Management Act Programs and Components:[30]

Emergency Management Accreditation Program - Florida participates in a voluntary evaluation and accreditation program for state and local emergency management programs. The evaluation is conducted independently by the National Emergency Management Association using stakeholder developed national standards. The State of Florida and Jacksonville/Duval County are among 21 states and 2 local jurisdictions that have achieved full national accreditation. Orange County, Florida has attained conditional accreditation.[31] Benefits from participation in accreditation include establishment of bench marks for program management and program validation.

Performance Measures:

- DEM has met its objective by attaining accreditation for the State's program. The division underwent evaluation under a newly expanded set of standards in December, 2008, and is seeking to become the first state in the nation to achieve re-accreditation.

Issues:

- At this time no additional financial benefits accrue from accreditation, however, DEM reports that the federal government may consider it in the future. The Federal Emergency Management Agency (FEMA) provided grant funding for DEM's current re-accreditation at no cost to the state. Accreditation is valid for a period of five years at which time the cost to DEM for a future re-accreditation is estimated at $23,000.

Disaster Reservist Program - Disaster response usually requires a surge in human resources to perform the many tasks necessary to manage and recover from a major or catastrophic disaster. It is not cost effective to maintain sufficient full-time personnel to meet such surge requirements. Therefore, the division has established a program to train a cadre of disaster reservists in order to quickly augment its staff when needed. Disaster reservists are required to complete a basic series of FEMA disaster assistance courses and DEM training. After completing training, reservists must submit a State of Florida Employment Application and if accepted have the ability, if activated, to deploy to any designated location.

---

[30] The description of DEM programs, advisory committees, performance measures, and data contained herein are sourced directly from DEM's 2008 Sunset Review Report available at http://www.floridadisaster.org/DEMpublic.asp.

[31] Emergency Management Accreditation Program at http://www.emaponline.org.

When activated, each reservist costs approximately $2,335 per week in salary and living expenses. Federally eligible response and recovery costs are reimbursed at a minimum of 75/25 percent federal/non-federal cost share. The needs of each disaster dictate the number of reservists activated. Reservists agree to serve for a period of at least 30 days and may work on average 60 hours per week during the crisis period.

Fire Management Assistance Grant Program (FMAG) - The Fire Management Assistance Grant Program provides federal assistance to cover the costs of fighting an uncontrolled fire or complex of fires which constitute a threat of disaster to public safety and/or improved property. FEMA issues a Fire Declaration upon approval of a state's request for federal assistance. DEM acts as the state administrative agency for the State and for local government agencies seeking FEMA/State Fire Management Assistance for eligible costs. In order to receive assistance, total costs must exceed a cost threshold.[32]

Performance Measures:

- Within the last three years, DEM has obtained, and is in the process of administering $25,442,052 in FMAG grant assistance. This assistance provides funding for state and local firefighting and related emergency work costs for seven Fire Declarations of uncontrolled fires that threatened the public safety and/or improved property.

Individual Assistance Program (IA) - Once the President has signed a disaster declaration, persons whose residences have been damaged due to the disaster may qualify for various forms of federal disaster assistance. This assistance may come in many forms including direct grants, low-interest loans, use of a travel trailer or mobile home as a temporary residence, temporary housing in rental properties or hotels/motels, etc. DEM coordinates with FEMA in order to assist the agency in establishing a local Individual Assistance infrastructure including setting up Disaster Recovery Centers, assists in the effort to ensure individuals are aware of the procedures for applying for IA, facilitates the movement of various FEMA personnel such as property inspectors into the disaster area, and performs any other duty that may assist individuals in applying for federal disaster benefits.

As a result of DEM's participation, disaster victims within the last five years have obtained individual and household grants, Small Business Administration (SBA) loans to individuals and businesses, disaster unemployment assistance, temporary disaster housing, crisis counseling, food coupons, legal assistance, and other essential needs. IA grants, assistance, and SBA loans are provided directly to disaster victims by the federal government and are 100 percent federally funded.

DEM provides two full-time staff members to coordinate necessary community outreach during a disaster and to activate Disaster Recovery Centers to assist victims in applying for benefits and assistance. These positions are state funded at a cost of $100,620 for salary and benefits and assigned an additional $38,709 in assessed indirect costs assessed on all salaries and benefits.

Other Needs Assistance Program - The Other Needs Assistance Grant Program provides grants to help families meet serious needs and personal expenses that are not covered by other government assistance programs, insurance, or other conventional forms of assistance. At present, grant amounts can be made up to $28,800 (adjusted annually in accordance with the consumer price index). Financial aid can be provided for medical expenses, transportation costs, replacement of essential property, protective measures, and funeral expenses. FEMA provides a 75 percent share of the program cost and the remaining 25 percent share is funded by state and/or local government.

Performance Measures:

- Floridians have received $670,834,150 in federal disaster assistance during the past five years as a result of the State's participation in the Other Needs Assistance Program.

[32] For Calendar Year 2008, the fire cost threshold is $990,907 for an individual fire or three times the threshold for a combination of multiple fires. FEMA adjusts the threshold annually.

Public Assistance Program (PA) - The Public Assistance Program provides federal disaster relief directed to supplement the efforts of state and local governments to restore public infrastructure following a disaster. There are two types of public assistance, "emergency" work and "permanent" work.

Emergency work includes disaster debris removal and emergency protective measures that include actions taken to provide for the public safety, protect improved property, and/or maintain operation of essential facilities such as emergency operations centers.

Permanent work involves restoration of disaster damaged facilities owned by state/local governments and certain non-profit organizations that provide governmental type services. Permanent work funding is divided into two categories, "Large Project Grants" (total estimated project cost of $60,900 or more) and "Small Project Grants" (total estimate project cost less than $60,900). Program applicants may apply for funding to restore a facility to its pre-disaster state or may propose one of two options if appropriate. An "Alternate Project" option may be proposed for reduced federal assistance for any improvement not related to the disaster when the applicant determines that it is not in the best public interest to restore a disaster-damaged facility. An "Improved Project" option may be proposed if the applicant decides to exceed the original design and function in the restoration. In this case, federal assistance is limited to the federal share of the original approved project estimate.

The federal share for Public Assistance shall be no less than 75 percent of cost and may be granted up to a maximum of 100 percent of cost.

Performance Measures:

- Florida state and local governments have received $4,624,879,625 in federal share Public Assistance grant funding during the past five years. DEM is in the process of administering these funds resulting from a total of 10 disaster events or emergency declarations during the covered period.[33]

Flood Mitigation Assistance Program - The purpose of this program is to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insured under the National Flood Insurance Program. Assistance is awarded whether the structure is a repetitive loss or not, thus any insured structure with one or more losses is eligible for assistance. Only the state emergency management agency or agency holding floodplain management responsibility for the state as well as federally recognized tribal governments may apply to FEMA for funding under this program. Mitigation grants under this program are only awarded to tribal governments or to states which in turn award sub-grants to local governments. Private individuals and private non-profit organizations are not eligible for sub-grant awards; however, state and local governments can apply for projects on their behalf. DEM provides technical assistance to local government applicants relating to application completion, cost-benefit analysis, and appeals assistance for projects that may not have been approved by FEMA

Performance Measures:

- Florida state and local governments have received $1,676,390 in federal funding from this program during the 2007 grant cycle.

Hazard Mitigation Grant Program - This program is designed to assist states, local governments, private non-profit organizations, and tribal governments in implementing long-term hazard mitigation measures following a major disaster declaration. In contrast to Permanent work projects funded under the Public Assistance Program, the Hazard Mitigation Grant Program (HMGP) authorizes funding for both public and private property mitigation as long as they are in compliance with program guidelines. However, it is more appropriate to fund mitigation measures for public property damage in a disaster under the Public Assistance Program before applying for assistance under HMGP. Further, post - disaster projects that simply repair and reconstruct property to pre-disaster conditions are not eligible for Public Assistance. The objective of HMGP is to mitigate loss rather than perpetuate a cycle of damage, reconstruction, and repeated damage. Although federally funded, the HMGP is administered by the state. HMGP priorities are set by the state under each disaster declaration that includes HMGP assistance authorization.

[33] This total does not include Public Assistance funding resulting from applications being submitted for Hurricane Fay in 2008.

DEM is the lead state administrative agency for this federal program and is supported by the Divisions of Housing and Community Development and Community Planning as well as the Florida Housing Finance Corporation, the Florida Coastal Management Program, and the Communities Trust Program. In this capacity DEM:

- Solicits and reviews HMGP applicant proposals;
- Prepares and submits proposals to FEMA; and
- Manages the HMGP and funds available under the program.

Performance Measures:

- Florida is eligible to receive $543,315,909 in HMGP funds from the 2004 and 2005 hurricanes and the 2006 and 2007 tornadoes.

National Flood Insurance Program - The National Flood Insurance Program (NFIP) is a pre-disaster flood mitigation and insurance protection program. The NFIP is a voluntary program which makes federally back flood insurance available to residents and business owners in communities that agrees to adopt and adhere to sound flood mitigation measures that guide development in its floodplains. NFIP participation is a requirement for a number of federal flood mitigation grant programs. In some cases, NFIP participation on the state and local lever results in decreased cost share to applicants receiving flood mitigation grants. The Governor has designated DEM as the state coordinating agency for the NFIP.

Performance Measures:

- Approximately 95 percent of Florida's communities participate in the program. As of November 30, 2008, there were 2,198,686 flood insurance policies in Florida, representing 41 percent of the total policies in effect nationwide. These policies represented $454,405,774,000 of insurance coverage.

Pre-Disaster Mitigation Program - The Pre-Disaster Mitigation Program is a competitive federal grant program developed to assist state, local, and tribal governments in planning and implementing cost-effective hazard mitigation activities prior to disasters. Grant awards are made to applicants without reference to state allocations, quotas, or other formula-based allocations of funds. The intent of the program is to reduce overall risk to people and property while also minimizing the cost of disaster recovery. Only the state emergency management agency or a similar office assigned the primary responsibility of emergency management may apply to FEMA for funding under this program. DEM reviews submitted projects to verify appropriateness, consistency with state and local mitigation strategies, cost-benefit, eligibility, and completeness before submitting the project to FEMA.

Performance Measures:

- Florida received Pre-Disaster Mitigation grant program awards in 2004, 2005, and 2007. In 2004, the state received $14,309,852 in federal funding for 29 projects. In 2005, the state received $15,888,021 in federal funding for 25 projects. In 2007, the state received $673,720 to support five projects including two planning grants, two retrofit projects, and one technical assistance grant.

Repetitive Flood Claims - The Repetitive Flood Claims grant program provides funding to reduce or eliminate the long-term risk of flood damage to structures insured under the NFIP that have had one or more claim payments for flood damages. The goal of this program is to reduce or eliminate claims under the NFIP through mitigation. Approved applications are prioritized in the order that will result in the greatest savings to the NFIP in the shortest period of time. As of April 2007, Florida had 9008 repetitive loss properties with damages totaling $420,389,550. DEM administers this program at the state level by reviewing projects for appropriateness, consistency with state and local mitigation strategies, cost-benefit, eligibility, and completeness before submitting them to FEMA.

Performance Measures:

- Florida received Repetitive Flood Claims grant program awards in 2006 and 2007. In 2006, the state received $3,617,628 in federal funding for ten projects. In 2007, the state received $1,773,604 in federal funding for six projects.

Residential Construction Mitigation Program - The Residential Construction Mitigation Program (RCMP) usually receives $7 million out of a total of $10 million annual appropriation from the Florida Hurricane Catastrophe Fund. Florida Statutes prescribe that 40 percent of the $7 million ($2.8 million) be designated for the Mobile Home Tie-Down Program. DEM provides this funding directly to Tallahassee Community College to operate the tie-down program. An additional 10 percent ($700,000) is designated for hurricane research conducted by Florida International University. The remaining 50 percent ($3.5 million) is designated for the improvement of residential homes wind resistance.[34] The wind resistance program is a competitive grant program that is developed in cooperation with the RCMP Advisory Council and DEM. DEM acts as the state administrative agency in disbursing appropriated funds according to Florida Statute. This program is statutorily authorized in s. 215.555, F.S., as part of an effort to provide for a viable insurance market in Florida.

Performance Measures:

- The 2008 Legislature appropriated $2.8 million for the tie-down program and $700,000 for hurricane research pursuant to s. 215.559, F.S. The Legislature further directed the remaining portion of the $10 million annual Florida Hurricane Catastrophe Fund appropriation be allocated for the purpose of installing emergency power generators in special-needs hurricane evacuation shelters ($6,421,764) and to DEM for purposes associated with program operations ($78,236).[35]

Severe Repetitive Loss Pilot Program - This pilot federal program has the objective of reducing or eliminating claims under the NFIP. Eligibility for the program is based on having at least four claims over $5,000 each and the cumulative amount exceeding $20,000 or having two separate claims that exceed the market value of the building. As of July, 2007, there were 480 residential properties in Florida that qualified as Severe Repetitive Loss properties as defined by the federal program. DEM administers this program at the state level by reviewing projects for appropriateness, consistency with state and local mitigation strategies, cost-benefit, eligibility, and completeness before submitting them to FEMA. DEM further supports local governments by providing technical assistance, outreach activities, financial and contract management, and project closeouts. The program is staffed within DEM's Mitigation Section as part of the section's regular duties. DEM staff supporting this program are funded by the administrative allowance portion of the federal grant.

Performance Measures:

- Fiscal Year 2008-2009 is the first year of the program. Performance measures remain to be established.

Emergency Management Preparedness Assistance (EMPA) Base Grant Program - The Legislature established the Emergency Management Preparedness and Assistance Trust Fund in 1993. An annual appropriation from this trust fund is used to assist each county with the enhancement of its emergency management capabilities. Each county receives an equal share of the appropriation. In addition, each county receives Emergency Management Performance Grant funds from FEMA to further support emergency capabilities and operations. FEMA funds are distributed based on the estimated county population with a requirement for at least a 50/50 local match. There is no application process for the award; however, each county is required at a minimum to have a full-time professional Emergency Management Coordinator in order to participate. DEM acts as the state administrative agency for this program. The program is statutorily authorized in s. 252.373, F.S.

Performance Measures:

- The program received an appropriation of $7,089,061 million for Fiscal Year 2008-2009.

Issues:

- The Emergency Management Preparedness and Assistance Trust Fund is provided funding through the imposition of a $2 per policy surcharge imposed on every homeowner's, mobile homeowner's, tenant homeowner's, and condominium unit owner's insurance policy. A $4 per policy surcharge is imposed on every commercial fire, commercial multiple peril, and business owner's property insurance policy. Historically,

---

[34] Section 215.559, F.S.
[35] Ch. 2008-4, L.O.F.

proceeds from these funding sources have not kept pace with Florida's population growth, thus limiting funding for this program.

Emergency Management Preparedness Assistance (EMPA) Competitive Grant Program - The EMPA Competitive Grant Program supports projects that will further state and local emergency management objectives. Awards are made under two separate sub-programs. The Emergency Management Competitive Grant Program which is designed to assist state or regional agencies, local governments, and private non-profit organizations. The Municipal Competitive Grant Program is reserved for municipalities only that are signatory to the current Statewide Mutual Aid agreement. DEM again acts as the state administrative agency for this program. This program provides a source of emergency management funding for municipalities and not-for-profit agencies that typically do not receive grant funding for such purposes.

Performance Measures:

- No funds were appropriated for this program in Fiscal Year 2008-2009 due to budget priorities.

Hurricane Program - The Hurricane Program, while not specifically authorized by ch. 252, F.S., never-the-less supports the objectives of the chapter. The purpose of the Hurricane Program is to coordinate the development and update of Florida's eleven regional hurricane evacuation studies. The State's program is modeled after FEMA's National Hurricane Program. As part of this program, DEM serves as the evacuation technical expert during emergency and non-emergency situations. DEM is currently administering a program called GIS/LIDAR (Light Detection and Ranging). This technology is being used by the National Oceanic and Atmospheric Administration (NOAA), NASA, and United States Geological Survey (USGS) researchers to document topographic change along shorelines. These data are collected with aircraft- mounted lasers capable of recording elevation measurements at a rate of 2,000 to 5,000 data points per second and have a vertical precision of 15 centimeters (6 inches). DEM will use this data to more accurately predict coastal flooding surge zones and improve the State's ability to direct timely hurricane evacuations.

Performance Measures:

- The Legislature has authorized expenditures of approximately $29 million of federal funds for implementation of the LIDAR program over the last three years. Funding for this program came from Hazard Mitigation Grant Program funds as part of the federal disaster relief package for the 2004 and 2005 storms established and approved under ch. 2006-071, L.O.F. To date, approximately $3 million have been expended to update regional demographic and land use analyses; critical facilities inventory; hazards analysis; and vulnerability, behavioral, shelter, and transportation analyses. Over $20 million have been expended to collect data and map over 20,000 square miles of Florida and process the collected data with storm surge model updates.

Emergency Preparedness Program - DEM administers a number of specific programs that together compromise an integrated emergency preparedness program.

The Emergency Alert System ensures that all 67 counties have a working emergency alert system so that warnings can be sent en mass to the citizens of the state.

The emergency preparedness Public Information Program performs education and outreach to ensure that all Floridians and visitors are prepared for all hazards that may affect the state. Two initiatives of the Public Information Program are the Hazardous Weather Awareness Week and the "Get A Plan" campaign. The Hazardous Weather Awareness Week is held annually in the spring prior to the start of hurricane season to promote a culture of preparedness throughout the state. The "Get A Plan" campaign is targeted toward encouraging residents who have the means and ability to be prepared in the event of a major storm.

The Radiological Emergency Preparedness Program is outlined in NUREG-0654 which is published by the Nuclear Regulatory Commission and FEMA. Federal guidelines dictate that states establish and maintain radiological emergency plans and improve emergency preparedness associated with nuclear power plants. The program is funded by the nuclear power industry. DEM assists other state and local agencies with planning expertise.

Performance Measures:

- DEM conducts weekly tests of the Emergency Alert System to ensure the system is in working order.
- The division currently is in the process of evaluating the effectiveness of its public information programs.

Florida Citizen Corps Program - The Florida Citizen Corps Program is designed to help communities be better prepared to respond to any kind of disaster. Citizen Corps members are community volunteers who receive first aid and emergency skills training. They become members of Community Emergency Response Teams (CERT) which provide support and disaster relief assistance to local professional emergency responders during a disaster. DEM administers this program which is funded through Homeland Security Grant funds.

Performance Measures:

- The state received a total award of $825,770 in federal grant funds in Fiscal Year 2006 and $625,584 in federal grant funds during Fiscal Year 2007.
- During Fiscal Year 2006-2007, Florida trained 26,299 new CERT team members, formed 10 Citizens Corps Councils, and 36 new CERT teams.

Hurricane Shelter Survey and Retrofit Program - This program is designed to eliminate the statewide hurricane evacuation shelter deficit. DEM has been directed by statute since 1993 to address the statewide deficit of safe public hurricane shelter space. In response, DEM has established a multi-faceted strategy which includes survey of existing and new facilities to identify those that are appropriately designed and located to serve as public shelters, providing guidance on enhanced hurricane protection construction techniques, and recommending retrofits to existing public shelters to improve their ability to house evacuees.

Performance Measures:

- During Fiscal Year 2006-2007, the approved performance standard for hurricane shelter space creation was 25,000 spaces. DEM exceeded the performance standard by assisting in the creation of 34,061 spaces.[36]

Florida Emergency Planning and Community Right to Know Act (Ch. 252, Part II, F.S.)

Pursuant to the Florida Emergency Planning and Community Right-to-Know Act, each employer that owns or operates a facility in this state at which hazardous materials are present in quantities at or above thresholds established in the federal Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), Public Law 99-499, shall comply with the reporting requirements of EPCRA. Employers must also provide written notification to the state, local emergency management planning committees, and local fire departments if there is a discontinuance or abandonment of an employer's business activities that could affect any stored hazardous materials.[37]

---

[36] Florida has made steady progress in reducing its public shelter space deficit. The state had a total deficit of almost 900,000 individual spaces in 1999. That deficit has been reduced to slightly more than 400,000 in 2008 and is projected to be eliminated by 2015. It is important to understand, however, that total shelter space requirements are dynamic and are measured regionally. For example, shelter space creation, at a minimum, must exceed annual population growth in order to shrink existing deficits. Currently five of Florida's eleven planning regions are judged to have surplus spaces within their region. One of those regions is projected to regress into a deficit situation by 2013 due primarily to population growth. In addition, Florida's hurricane evacuation strategy recommends individuals and families limit their evacuation to shelters within their county in order to minimize evacuation route gridlock. Regional shelter space availability is therefore a better measure of sheltering capability. Florida's shelter space creation strategy has relied on retrofitting existing structures to higher wind resistance standards and new structure construction (primarily new school buildings). New school construction has limitations particularly with elementary schools which typically lack shower facilities and an abundance of adult size toilets. In addition, public evacuation shelters cannot be located in areas that are subject to flooding which presents a particular problem for the Southwest Florida region. (Data Sources – DEM 2008 Sunset Review Report available at http://www.floridadisaster.org/index.asp and DEM provided 2008 Sunset Review briefing document "Hurricane Shelter Status.")

[37] Section 252.87, F.S.

The Legislature intended, when it passed this act, that state activities and expenditures under this part be self-sustaining and supported primarily by fees imposed on facility owners or operators.[38] The Act recognizes the establishment of the State Hazardous Materials Emergency Response Commission created pursuant to EPCRA. The Act further grants authority to the Department of Community Affairs to coordinate its activities under this part with its other emergency management responsibilities and make rules with the advice and consent of the commission. The department is directed to provide administrative support and funding to the commission to enable it to perform its functions under EPCRA.[39] DEM administers several preparedness programs pursuant to this Act.

This program is currently assigned to DEM as an emergency management function. The program collects hazardous material information for use by local responders and Hazardous Materials Teams in order to facilitate response actions during an emergency situation. DEM facilitates training and exercise programs to ensure that local, regional, and state responders are adequately prepared to address the presence of hazardous materials during disasters other than accidental chemical releases.

Hazardous Materials Planning and Awareness – State Emergency Response Commission (SERC) for Hazardous Materials - In response to a growing concern for safety around chemical facilities, Congress enacted EPCRA. EPCRA contains five sections which cover issues associated with the manufacture, use, exposure, and transportation, and public education of hazardous materials. It is the mission of Local Emergency Planning Committees (LEPCs) and the SERC to implement EPCRA in Florida and mitigate the effects of a release or spill of hazardous materials. The SERC serves as a technical advisor and information clearinghouse for state and federal hazardous materials programs. The Governor appoints the 23 members of the SERC to fill designated membership categories from state agencies (Departments of Environmental Protection, Transportation, and Law Enforcement), the Governor's office, professional organizations such as the Florida Fire Chiefs Association, and private industry. The Governor has designated DEM as the primary agency for coordinating and providing staff support the emergency planning and prevention requirements of EPCRA and ch. 252, Part II, F.S.[40]

Performance Measures:

- Percent of known facilities in compliance with hazardous materials planning programs
  - Approved Fiscal Year 2006-2007 standard – 92 percent
  - Actual Fiscal Year 2006-2007 performance – 95 percent;
- Local organizations support to enhance hazardous materials compliance planning
  - Approved Fiscal Year 2006-2007 standard – 70
  - Actual Fiscal Year 2006-2007 performance – 70
- Community Right-to-Know requests fulfilled
  - Approved Fiscal Year 2006-2007 standard – 70
  - Actual Fiscal Year 2006-2007 performance – 70
- Fees collected under EPCRA for Fiscal Year 2006-2007 are $2,319,890.

United States Department of Transportation Hazardous Materials Emergency Preparedness Program - The federal Hazardous Materials Transportation Uniform Safety Act of 1990 established the Hazardous Materials Emergency Preparedness (HMEP) grants program. It was intended that these grants would enhance EPCRA, encourage a comprehensive approach to planning and training for emergency response situations, and increase effectiveness in safely and efficiently handling hazardous materials incidents. HMEP grant awards are made for both planning and training. As provided by federal law, at least 75 percent of planning grant funding must be passed through to the LEPCs and 75 percent of training funds must benefit local firefighter, law enforcement, or other public responder groups. DEM serves as the state administrative agency for administering the HMEP grants program.

In 1993, the SERC established the Training Task Force to address the requirements of the Hazardous Materials Transportation Act grant program. Since its inception the task force's responsibilities have been expanded to include the development of responder training guidelines, coordination with various responder groups to ensure that required

[38] Section 252.84, F.S.
[39] Section 252.83, F.S.
[40] Governor's Executive Order #05-122.

hazardous materials training is available, establish a uniform classification system for hazardous materials incidents, and examination of the need and feasibility of establishing hazardous materials are response teams.

Performance Measures:

- HMEP received approximately $450,000 in federal funding.
- In Fiscal Year 2006-2007, LEPCs trained 2,556 public sector employees in hazardous materials response, conducted four hazardous materials multi-jurisdictional/multi-functional exercises, and updated 11 LEPC Hazardous Materials Emergency Response Plans.

Emergency Management Assistance Compact (Ch. 252, Part III, F.S.)

The Emergency Management Assistance Compact (EMAC) is an agreement entered into by all 50 states, the Commonwealth of Puerto Rico, the District Columbia, and all United States territorial possessions. The purpose of the compact is to provide for mutual assistance between the states entering into the compact in managing any emergency or disaster that is duly declared by the governor of the affected state(s). The compact also provides for mutual cooperation in emergency related exercises, testing, or other training activities.[41] DEM coordinates the performance of compact obligations on behalf of the state both in training exercises and during times of actual disaster response.

Florida Accidental Release Prevention and Risk Management Planning Act (Ch. 252, Part IV, F.S.)

The purpose of the Florida Accidental Release Prevention and Risk Management Planning Act is to implement, fund, and enforce the requirements of the Accidental Release Prevention Program of the federal Clean Air Act. DEM is granted the power and duty to seek delegation from the United States Environmental Protection Agency to implement the Accidental Release Prevention Program under the federal Clean Air Act. DEM is responsible for timely submission of Risk Management Plans along with any subsequent revisions. DEM may adopt, modify, and repeal rules, with the advice and consent of the SERC necessary to administer the Accidental Release Prevention Program; make and execute contracts; establish a technical assistance and outreach program to assist owners and operators in complying with the reporting and fee requirements of this part; provide administrative support including staff, facilities, materials, and services to implement this part; and prevent the duplication of investigative efforts and resources. DEM is prohibited from delegating the Accidental Release Prevention Program to any local environmental agency and is the only agency authorized to seek implementation delegation.[42] It is the intent of the Legislature that the state activities and expenditures under this part be self-sustaining through fees contributed by owners or operators of specified sources subject to regulation by the United States Environment Protection Agency.[43]

Hazardous Materials Planning and Prevention Program - The program ensures that facilities are prepared to respond to, prevent, and detect accidental releases associated with regulated substances. Facilities are required to prepare and file a Risk Management Plan that includes a description of the facility's Hazard Assessment, Accidental Release Prevention Programs, and an Emergency Response Program. Program implementation is performed by three sections within DEM.

The Verification Unit provides technical assistance to facilities regarding compliance with the federal and state EPCRA acts. There are numerous reporting requirements that facilities subject to the Acts must adhere to which require technical assistance and review. Unit personnel maintain a database of all the reporting facilities and their chemical inventories.

The Compliance Review Unit serves as the planning unit. As required by the federal EPCRA, each LEPC must prepare and submit an emergency plan consistent with the criteria developed by the National Response Team. These plans are reviewed by staff and approved by the State Emergency Response Commission annually. This unit is also responsible for review and approving hazards analyses prepared by each county depicting the worst-case scenario if a chemical release were to occur at a facility. Further, this unit is responsible for reviewing local government comprehensive emergency management plans to ensure compliance with Rule 9G-6, Florida Administrative Code.

[41] Section 252.922, F.S.
[42] Section 252.937. F.S.
[43] Section 252.938, F.S.

The Risk Management Planning Unit provides technical assistance and conducts facility audits to ensure that subject facilities are compliant with Florida's Accidental Release Prevention and Risk Management Planning Act.

Performance Measures:

- Hazardous materials facilities audits completed
    - Approved Fiscal Year 2006-2007 standard – 170
    - Actual Fiscal Year 2006-2007 performance – 190
- Hazardous materials planning financial agreements maintained
    - Approved Fiscal Year 2006-2007 standard – 70
    - Actual Fiscal Year 2006-2007 performance – 70
- Fees collected from facilities subject to the Risk Management Planning Program for Fiscal Year 2006-2007 are $357,179.

Counter Terrorism Coordination (Section 943.03101, F.S.)

The Legislature found that with respect to counter-terrorism efforts and initial responses to acts of terrorism, specialized efforts are required. These efforts intrinsically involve very close coordination of federal, state, and local law enforcement with the efforts of all others involved in emergency-response efforts. The FDLE was determined to be the agency that should coordinate such efforts while working closely with DEM and others involved in preparation against acts of terrorism in accordance with the state comprehensive emergency management plan.[44]

The Legislature further found a need to provide executive direction and leadership with respect to terrorism prevention, preparation, protection, response, and recovery efforts by state and local agencies. In recognition of this need, the Legislature created the Domestic Security Oversight Council (DSOC) to provide guidance to the state's Regional Domestic Security Task Forces (RDSTF) and other domestic security working groups. The DSOC is directed to make recommendations to the Governor and the Legislature regarding the expenditure of funds and allocation of resources related to counter-terrorism and domestic security efforts. The executive director of FDLE serves as chair of the council and the director of DEM serves as council vice-chair.[45]

Domestic Security Program - Florida's domestic security program is implemented in cooperation with state and local governments and key private sector partners to ensure an integrated plan is designed to meet the threat posed by terrorists and acts of terrorism. In order to support this effort, Florida built an inclusive structure to encourage and facilitate multi-jurisdictional and multi-disciplinary participation at all levels of government. Florida's structure provides a forum to facilitate communication between municipalities, counties, state government, federal government, and private industry; provides consistency in response protocols, equipment and training, and interoperable communications among local and state response agencies; provides a governance mechanism that promotes consensus; and ensures local, state, and federal initiatives are working in support of a common goal. Florida's structure has three components.

Seven RDSTFs consisting of local representatives from disciplines involved in prevention and response including law enforcement, fire/rescue, emergency medical services, emergency management, hospitals, public health, schools and businesses, were formed to encompass the entire state. The RDSTFs work together with the Chief of Domestic Security within FDLE to prepare for, prevent, and respond to terrorist acts.

The DSOC was established to review and provide guidance to the state's domestic security prevention, preparedness, and response activities. The council reviews the efforts of and provides guidance to the RDSTFs and formally approves and directs state adoption of the Homeland Security Strategy. In addition to the chair and vice-chair, membership includes the Attorney General, the Commissioner of Agriculture, the State Surgeon General, the Commissioner of Education, the State Fire Marshal, the Adjutant General of the Florida National Guard, the state Chief Information Officer, each of the seven sheriffs or chiefs of police who serve as RDSTF co-chairs, each of the seven FDLE special-agents-in-charge who also serve as an RDSTF co-chairs, two representatives of the Florida Fire Chiefs Association, one

[44] Section 943.03101, F.S.
[45] Section 943.0313, F.S.

representative of the Florida Police Chiefs Association, one representative of the Florida Prosecuting Attorneys Association, the chair of the Statewide Domestic Security Intelligence Committee, and one representative each for the Florida Hospital Association, the Emergency Medical Services Advisory Council, the Florida Emergency Preparedness Association, and the Florida Seaport Transportation and Economic Development Council. Additional ex-officio members may be appointed as non-voting members to attend and participate in council meetings.

The State Working Group (SWG) was established to bring together representatives and subject matter experts from the RDSTFs, urban areas designated under the Urban Area Security Initiatives (UASI) program, and other key agencies in order to address domestic security issues that are identified by the RDSTFs and the DSOC.

An important function of Florida's domestic security program is to identify those projects that require sustainment funding or are necessary to meet gaps in the state's anti-terrorism preparedness structure. Projects are identified and vetted through a collaborative process that results in a recommended prioritized list given to the Legislature prior to the start of the annual Legislative Session. Funding for such projects is dependent on grants received annually from the federal Department of Homeland Security. DEM acts as the state administrative agency in submitting and managing the state's Homeland Security grant applications and administering federal funds that are passed through to state, regional, and local entities as well as non-profit organizations.

Performance Measures:
- During Fiscal Year 2006-2007, DEM administered more than $110,255,000 in federal grant funding for state, regional, and local domestic security programs.

Continuity of Operations Program - The Continuity of Operations Program (COOP) is not a part of the domestic security program but is closely related to both domestic security and emergency management. COOP prepares all levels of government and the private sector for continued operations in the event of a natural or man-made disaster. Although the program is not mandated by federal law, Federal Preparedness Circular 65 of July 26, 1999 provides guidance on COOP and encourages participation. DEM administers COOP including federal funding for county COOPs directed through DEM in accordance with the Governor's Executive Orders 01-262 of September 11, 2001 and 01-300 of October 11, 2001. Section 252.365, F.S., requires all state agencies to have an Emergency Coordination Officer and a disaster preparedness plan.

Performance Measures:
- To be developed.

Advisory Councils:
DEM participates on a number of advisory councils some of which are mandated by Florida Statutes and others which are established by Executive Order or the result of management initiatives:

Hurricane Loss Mitigation Program Advisory Council (s. 215.559, F.S) - The Hurricane Loss Mitigation Program Advisory Council, also known as the Residential Construction Mitigation Council (RCMP), was formed after Hurricane Andrew to provide sophisticated and reliable actuarial methods for residential property insurance holders. DEM administers the council including administration of competitive grant funding appropriated from the Florida Hurricane Catastrophe Trust Fund.

During Fiscal Year 2006-2007, the council reviewed submissions for RCMP competitive grants and prioritized the list of projects recommended to receive program funding.

Domestic Security Oversight Council (ch. 943, F.S.) - The council oversees and coordinates the seven RDSTFs in determining the prevention, planning, response, and training strategies and equipment purchases for the State's domestic security program. The director of DEM serves as the council vice-chair. During Fiscal Year 2006-2007, the council provided oversight for all aspects of Florida's domestic security program.

State Emergency Response Commission (SERC) for Hazardous Materials (Governor's Executive Order 05-122) The council implements the federal provisions of the Emergency Planning and Community Right-to-Know Act and the risk management planning requirements of the federal Clean Air Act.

During Fiscal Year 2006-2007, the SERC completed a capability assessment of Florida's Regional Hazardous Materials Response Teams, developed a model cost recovery ordinance for local governments' use in recovering costs associated with a hazardous materials response, and proclaimed January 21 – 27 as Hazardous Materials Awareness Week in order to raise hazardous materials awareness.

Citizens Corps Task Force (Governor's Executive Order 03-105) - This task force is co-chaired by the director of DEM. More than 40 state, non-profit, and federal agencies meet regularly to further the role of Florida's Citizen Corps Program.

Local Emergency Planning Committees (Management Initiative) - The LEPCs are coordinating councils[46] which provide hazardous materials training opportunities and conduct planning and exercise activities in each of the 11 emergency management planning districts.

LEPCs reported a variety of initiative accomplishments including hazard analysis site visits and training is such areas as fire chemistry, gas pipelines, homeland security, hazardous materials incident response, emergency management exercise planning and exercise participation, and chemical compatibility and storage.

State Hazard Mitigation Plan Advisory Team (Management Initiative consistent with ss. 252.35 and 252.44, F.S.) - This advisory team is chaired by DEM and is composed of state agency Emergency Coordinating Officers and representatives from the Regional Planning Councils, the Florida League of Cities, the Florida Association of Counties, Water Management Districts, Local Mitigation Strategy Working Groups, private non-profit groups, the Florida Chapter of the American Planning Association, federal agencies, and the education community. This multi-agency group is responsible for developing a state mitigation plan to reduce the effects of future disasters.

During Fiscal Year 2006-2007, this advisory team participated in the revision planning process of the State Hazard Mitigation Plan.

State Working Group on Domestic Preparedness (Management Initiative) - The State Working Group (SWG) plays a vital role in State's domestic security program by providing a coordinating function for domestic security issues. It consists of an Executive Board and six committees. The Executive Board members are appointed from the five principal state agencies charged with domestic security responsibilities with DEM serving as co-chair. A DEM representative also serves as co-chair and voting member on each of the six functional committees.
During Fiscal Year 2006-2007, the SWG coordinated the development of the Alternative Medical Treatment Site Plan, the Ambulance Deployment Plan, the Florida's Pandemic Influenza Annex to the State Comprehensive Emergency Management Plan, and the Statewide Critical Infrastructure Strategy. The SWG also coordinated in the conduct of seven regional exercises centered on the Target Capabilities List and one executive level exercise involving the Governor and his senior staff.

Florida Comprehensive Hurricane Damage Mitigation Advisory Council (s. 515.5586, F.S) **-**This council is administered by the Department of Financial Services to coordinate the My Safe Florida Home Program. This program is established to assist Floridians in taking measures to strengthen their homes against hurricanes and reduce hurricane damage. The director of DEM serves as a council member as provided for in statute.

Emergency Management Advisory Working Group (Management Initiative) - Accreditation under the Emergency Management Accreditation Program requires the advisory group to assist DEM. This group is newly formed in recognition of the fact that the State Emergency Response Team (SERT) is a partnership between DEM and local

[46] Section 20.03, F.S. Pursuant to this section, committees are defined as advisory bodies created, without specific statutory enactment, for a time not to exceed one year. Coordinating councils are created as interdepartmental advisory bodies without length of existence limits. LEPCs use the term "committee" when in fact they are coordinating councils.

emergency management organizations. The group's initial stated purpose is to expand emergency management program governance. The group conducted its first organizational meeting on October 10, 2008.

Overall Issues:

- DEM operates as an independent budget entity reporting directly to the Governor for operational matters relating to its emergency management mission. DEM is directed to enter into a support agreement with DCA for certain services. It is uncertain whether this support arrangement provides the most effective service to the division; and
- There are numerous references throughout Florida Statutes that assign responsibilities to DCA but are in fact the functional responsibility of DEM. Given the evolution of DEM as an independent entity reporting to the Governor, review of these references is in order.

Florida Housing Finance Corporation

Mission

The Florida Housing Finance Corporation (successor to the Florida Housing Finance Agency) is the state entity primarily responsible for financing the construction and reconstruction of new and rehabilitated affordable housing in Florida, and encouraging the investment of private capital in affordable housing projects. The corporation was created by the Legislature in 1997 to streamline implementation of affordable housing programs and is a public corporation housed within the DCA. The corporation is a separate budget entity not subject to control, supervision, or direction by the DCA, and is governed by a nine-member board of directors comprised of the Secretary of Community Affairs (serving as an ex officio voting member) and eight members appointed by the Governor. The gubernatorial appointees are subject to confirmation by the Senate, and each appointee must meet one of the following criteria:

- Is engaged in the residential home building industry;
- Is engaged in the banking or mortgage industry;
- Represents areas of labor engaged in the home building industry;
- Advocates for low-income persons and has experience in housing development;
- Is engaged in the commercial building industry;
- Is a former local government elected official; or
- Is one of two citizens who don't represent any of the other listed entities.

The corporation's executive director is appointed by the Secretary of Community Affairs with the advice and consent of the Board of Directors. The corporation functions under the terms of a multi-year contract with the Secretary of DCA to provide affordable housing in the state and to operate several housing programs financed with state and federal dollars. The contract must incorporate certain statutorily required performance measures and must be consistent with the corporation's long range program plan.

Section 420.504, F.S., provides that the Florida Housing Finance Corporation is governed by a Board of Directors comprised of the Secretary of Community Affairs (serving as an ex officio voting member) and eight members appointed by the Governor and subject to confirmation by the Senate. The corporation's executive director is appointed by the Secretary of Community Affairs with the advice and consent of the Board of Directors.

FHFC Annual Audit

According to the independent annual audit performed by Deloitte & Touche LLP, which covers the year ending December 31, 2007, the Florida Housing Finance Corporation had:

- Total Assets of $6.4 billion of which $6.2 billion is restricted by bond indenture or by statute.
  - Assets include current non-capital assets of $1.3 billion, non-current assets of $5.1 billion, and net capital assets of $200,000.
- Total Liabilities of $4.4 billion.
  - Liabilities include current liabilities of $160 million, and noncurrent liabilities of $4.4 billion.[47]

[47] Current assets include cash and cash equivalents, investments, interest receivable on investments, interest receivable on loans, net loans receivable, documentary stamp taxes receivable, and other assets. Noncurrent assets include net investments,

    - Total bond debt outstanding is $4.1 billion net of discounts.
- Total Net Assets of $1.993 billion.
    - Restricted net assets total $1.896 billion.
    - Unrestricted net assets total $96.6 million.
- Operating Revenues of $358.7 million.
    - Interest on loans - $145.7 million, investment income - $189.3 million, other income - $19.8 million, and HUD administrative fees - $4.2 million.
        - Restricted revenues total $333.6 million.
        - Unrestricted revenues total $25.1 million.
- Operating Expenses of $436.2 million.
    - Interest expense - $199 million, payments to other governments - $154.3 million, provision for uncollectible loans - $22.9 million, general and administrative expenses - $46.7 million, and housing assistance payments - $13.3 million.
        - Expenses in restricted funds total $411.3 million.
        - Expenses in unrestricted funds total $24.9 million.
- Non-operating revenues and expenses of $427.5 million.
    - HUD program receipts of $44.3 million, and state documentary stamp tax receipts of $387.4 million, and transfers to state agencies of $4.2 million.
        - Non-operating revenues and expenses in restricted funds total $421 million.
        - Non-operating revenues and expenses in unrestricted funds total $6.5 million.[48]

Performance Measures:

- Ratio of non-state funding to state appropriated dollars.
    - 2007-2008 Approved Standard: $2 to $1
        - 2007-2008 Actual Performance: $7 to $1
    - 2008-2009 Approved Standard: $2 to $1
- Percent of units exceeding statutory set-asides.
    - 2007-2008 Approved Standard: 105 percent
        - 2007-2008 Actual Performance: 245 percent.
    - 2008-2008 Approved Standard: 105 percent
- Number of housing assistance applications processed.
    - 2007-2008 Approved Standard: 563
        - 2007-2008 Actual Performance: 1,288
    - 2008-2009 Approved Standard: 563

Funding

Documentary Stamp Tax Revenues (s. 201.15(9) and (10), F.S. - The Florida Housing Finance Corporation receives funding from state documentary stamp tax revenues which are distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund, and used to support state and local programs that operate alongside federal programs. The State Housing Trust Fund programs include the State Apartment Incentive Loan Program (SAIL) which receives about 20 percent of revenues, the Predevelopment Loan Program, the Florida Homeownership Assistance Program, the payment of debt service for the Affordable Housing Guarantee Program if necessary, the Affordable Housing Study Commission, one-half of the funding for the Florida Housing Data Clearinghouse at the University of Florida's Shimberg Center for Affordable Housing, and the Catalyst Training and Technical Assistance Program. The Local Government Housing Trust Fund programs include the State Housing Initiatives Partnership Program (SHIP) which receives about 66 percent of documentary tamp tax revenues, the Community Workforce Housing and

---

net loans receivable, net deferred finance charges, and net capital assets. Current liabilities include accounts payable, accrued interest payable, accrued arbitrage rebate, collateralized bank loan, net bonds payable, and net deferred fee income. Noncurrent liabilities include net bonds payable, net deferred fee income, other liabilities, monies due to developers, and moneys due to the State of Florida.

[48] Information on restricted and unrestricted assets, revenues, and expenses provided by the Florida Housing Finance Corporation.

Innovation Pilot Program, the Preservation Pilot Program, compliance monitoring for the SHIP program, and one-half of the funding for the Florida Housing Data Clearinghouse.

The State Housing Trust Fund receives at least $243 million annually in documentary stamp tax revenues, and about $166 million is a pass thru to the Local Government Housing Trust Fund. Of the remainder, the SAIL programs receives about $55 million, $5.9 million is transferred to the Department of Children and Families for homeless programs, and the corporation's Board of Directors determines the percentage of remaining funds to be distributed among the other programs unless otherwise directed by the Legislature.

Private Activity Bonds – Exempt Facility Bonds and Qualified Mortgage Bonds (s. 159.804, F.S.) - Section 146 of the Internal Revenue Code (Title 26, United States Code) establishes the volume cap for issuers of tax-exempt private activity bonds authorized under the Code and establishes a state ceiling applicable to any state for any calendar year. The ceiling is based on the greater of the state's population multiplied by $75, or $225 million, with a cost of living adjustment. The volume cap for state agencies authorized to issue the tax exempt bonds is 50 percent of the state ceiling for each calendar year.

Section 142(d) of the Code authorizes the issuance of tax exempt facility bonds for qualified residential rental projects that meet the requirements for residency by occupants with income restrictions. Section 143 of the Code authorizes the issuance of tax exempt qualified mortgage bonds to finance owner-occupied residences. A residence meets the residence requirements to finance a purchase with the proceeds of mortgage revenue bonds if it is a single-family residence which can reasonably be expected to become the principal residence of the mortgagor, and it is located within the jurisdiction of the authority issuing the bonds. Mortgagors may not have had ownership interest in the residence for 3 years prior to the execution of the mortgage, and income may not exceed 115 percent or less of the applicable median family income (statewide or area), adjusted for high housing cost areas.

Section 159.804(3), F.S., provides that the Florida Housing Finance Corporation receives approximately 25 percent of the state private activity bond volume allocated under the state volume limitation imposed on such bonds under the Code, and s. 420.507(23), F.S., authorizes the corporation to determine how the bond volume will be allocated between the qualified residential rental projects and the qualified mortgage bonds. Proceeds from bonds issued for rental projects are used to provide below market rate loans to developers who set aside a certain percentage of the units in the project for occupancy by income-qualified persons or families (Multifamily Mortgage Revenue Bonds.) Proceeds from the issue of tax-exempt qualified mortgage bonds are used to originate 30-year, fixed-rate mortgage loans through the First Time Homebuyer Program.

In FY 2008-09, the tax-exempt bond allocation to the Florida Housing Finance Corporation for the issuance of private activity bonds was $363.5 million.

In 2005, the United States Congress enacted the "Gulf Opportunity Zone Act of 2005" (GO Zone Act) as a response to hurricanes Katrina, Rita and Wilma. The First-Time Homebuyer requirement for eligibility for low-interest rate mortgages was waived in the Katrina Emergency Tax Relief Act of 2005, and was extended in the GO Zone Act to individuals affected by hurricanes Rita and Wilma. The Wilma GO Zone covers Brevard, Broward, Collier, Glades, Hendry, Indian River, Lee, Martin, Miami-Dade, Monroe, Okeechobee, Palm Beach and St. Lucie counties, and is in effect through December 31, 2010.

Issue:

- Housing and Economic Recovery Act of 2008 (federal).
  - Provides Florida with an additional $571 million in bond capacity for qualified residential rental projects and the First Time Homebuyers Program so long as bond proceeds for home ownership are used within one year of the bond issue.
    - Florida Housing Finance Corporation will receive $280.1 million of the allocation and the remainder will be divided regionally by the formula contained in s. 159.804(2), F.S.

State Revenue Bonds (s. 420.509, F.S.) - The Florida Housing Finance Corporation is authorized to issue revenue bonds to provide funds in an amount sufficient to achieve the purposes for which the corporation was established. The provisions of the State Bond Act[49] do not apply to the corporation. Revenue bonds issued by the corporation are payable only from pledged revenues and are not secured by the full faith and credit of the state.

The State Board of Administration is designated as the state fiscal agency with the responsibility of determining that the debt service on bonds issued does not exceed the revenues available to pay the debt service. The bonds must be issued for a term of not more than 45 years and are negotiable instruments under the Uniform Commercial Code-Investment Securities law of the state. For issues where the interest on proceeds is not exempt from federal taxes, 20 percent of the tenants in the project must have an annual income that is less than 80 percent of the state or county median income, whichever is greater.

Florida Affordable Housing Guarantee Program Revenue Bonds (s. 420.5092, F.S.) - The Florida Housing Finance Corporation is authorized to issue a maximum of $400 million in revenue bonds to fund the Florida Affordable Housing Guarantee Program which was created to stimulate private sector lending activities to increase the supply and lower the cost of financing or refinancing affordable housing projects. Revenue bonds are issued by the corporation to provide moneys to issue affordable housing guarantees for the payment of obligations made to finance or refinance the purchase, construction, or rehabilitation of eligible housing for homeownership or rental opportunities for eligible persons, including the homeless. Bond proceeds are deposited into the Florida Affordable Housing Guarantee Fund created to implement the guarantee project. Revenues and interest earnings deposited into the Guarantee Fund pay the debt service on outstanding bonds. If necessary, debt service on the bonds may be paid out of the State Housing Trust Fund. The corporation's board of directors approves the qualified lending institutions and approves the issuance of commitments to guarantee any or an aggregate of the qualified obligations. The corporation is authorized to adopt rules to establish rates and fees for the issuance of an affordable housing guarantee, and the Guarantee Program partners with the HUD Risk Sharing program which allows each party to assume 50 percent of the default risk of the mortgage.

Issue:

- Why does the corporation limit this to guarantees of mortgages securing multifamily mortgage revenue bonds?

Programs

State Apartment Incentives Loan Program (s. 420.5087, F.S.) - The State Apartment Incentives Loan (SAIL) Program provides non-amortizing[50], low-interest loans on a competitive basis to developers of affordable rental housing. The SAIL program provides gap financing that leverages the federal tax exempt facility bonds for qualified residential rental housing and, in some instances, leverages the federal Low Income Housing Tax Credits to allow developers to obtain the full financing necessary to construction of affordable, multifamily residential rental units. Special consideration is given for projects that provide housing for the elderly, the homeless, farmworkers, and commercial fishing workers.

Program funds are distributed over successive 3-year periods to meet the need for very-low income (persons and families with an annual adjusted gross household income that is not in excess of 50 percent of the statewide median annual household income). The need and demand is determined by using the most recent statewide low-income rental data available at the beginning of the 3-year period. Ten percent of the distributed program funds must be set aside for use in counties meeting certain population requirements.

The corporation may make SAIL loans or loan guarantees to project sponsors if:

- The sponsor is using tax-exempt financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who meet the HUD income requirements for Section 8 housing;
- The sponsor uses taxable financing for the first mortgage and at least 20 percent of the units are set aside for persons or families with incomes below 50 percent of the state or local median, whichever is higher;
- The sponsor uses federal low-income housing tax credits, and the project meets the tenant income eligibility requirements for qualified low-income housing projects in s. 42 of the Code; or

---

[49] See ss. 215.57-215.83, F.S.

[50] A type of loan in which payments are not made on the principal, but only on the interest; or where minimum interest payments are made. Examples include balloon mortgages or deferred interest loans.

- The project is located in a county that includes, or has included within the past 5 years, an area of critical state concern as designated or ratified by the Legislature, and 100 percent of the units in the project are set aside for persons or families within incomes below 120 percent of the state or local median income, whichever is higher.

During the first six months that funds are available for loans or for loan guarantees, up to ten percent of the funds available are set aside for sponsors of projects that provide unit availability to commercial fishing workers and farm workers, families, and elderly persons under the corporation's Elderly Housing Community Loan Program[51]. The amount of funds to be set aside is determined using the most recent statewide very-low-income rental housing market study available to the time of publication of each notice of fund availability.

Florida Homeownership Assistance Program (s. 420.5088, F.S.) - The Florida Homeownership Assistance Program (HAP) was created to assist low-income and moderate-income persons in purchasing a home for primary residency by providing below-market construction financing, by reducing the amount of down payment and closing costs paid by the borrower to 5 percent of the purchase price, or by reducing the monthly payment to an amount that is affordable to the purchaser. Loans may not exceed a 3 percent interest rate, and the balance of any loan becomes due at closing if the property is sold, refinanced, rented or transferred without approval by the corporation.

The corporation may make permanent loans to eligible borrowers related to the purchase of the borrower's primary residence (Permanent Loan Program); or make subordinated loans to nonprofit sponsors or developers of affordable housing for purchase of the property, for construction, or to finance housing that will be offered for sale to eligible borrowers at an affordable price (Construction Loan Program). If the subordinated loan is for the purchase of property or for the construction of or financing of affordable housing, preference must be given to certain community-based organizations and priority must be given to projects that receive state assistance in funding project predevelopment costs.

At least 30 percent of the units in a project financed under the HAP must be sold to persons or families with incomes that do not exceed 80 percent of the state or local median income, and at least another 30 percent must be sold to persons or families with incomes that do not exceed 65 percent of the state or local median income. The maximum loan amount may not exceed 33 percent of the total project cost.

Predevelopment Loan Program (s. 420.526, F.S.) - The Predevelopment Loan Program assists nonprofit and community based organizations, local governments, and public housing authorities with loans or grants for predevelopment costs, including site acquisition; site development; predevelopment fees to architects, engineers, surveyors, attorneys, or other professionals; marketing expenses related to advertising; administrative expenses, market and feasibility studies; or consulting fees related to the planning, financing, or development of affordable housing. Eligible organizations may apply for a loan for the lesser of project development and acquisition costs or $750,000. Applications and eligibility criteria are as provided in rules of the Florida Housing Finance Corporation, and final decisions regarding funding are approved by the corporation's Board of Directors.

Affordable Housing Catalyst Program (s. 420.531, F.S.) - The Affordable Housing Catalyst Program was created in the Department of Community Affairs and was transferred to the Florida Housing Finance Corporation in 2004. The program's purpose is to secure the expertise necessary to provide community-based organizations and staff of local governments with specialized technical support to implement the HOME Investment Partnership program, the SHIP program, and other affordable housing programs. The entity providing the expertise must be recognized by the IRS as a nonprofit tax-exempt entity, and must have as its primary mission the provision of affordable housing training and technical assistance. The entity must also be able to provide statewide training and technical assistance, and must have a proven record of success in providing assistance under the Affordable Housing Catalyst Program. Training relating to the following key elements of partnership programs must be provided:

---

[51] The Elderly Housing Community Loan Program provides loans of up to $750,000 to make substantial improvements to existing affordable elderly rental housing. Substantial improvements can include sanitation repairs or improvements required by federal, state, or local regulations codes, and life safety and security related improvements. (See 67-32, F.A.C., and s. 420.5087(3)(d),F.S.)

- Formation of local and regional housing partnerships as a means of bringing together resources to provide affordable housing;
- Implementation of regulatory reforms to reduce the risk of and cost of developing affordable housing;
- Implementation of affordable housing programs included in local government comprehensive plans; and
- Compliance with requirements of federally funded housing programs.

Performance Measures and Unit Cost Data:

- Percent of targeted dollars allocated to targeted population (SAIL).
    - 2007-2008 Approved Standard: 96 percent
        - 2007-2008 Actual Performance: 100 percent
    - 2008-2009 Approved Standard: 96 percent
- Ratio of non-state funds to state appropriated funds (State Housing Trust Fund Programs).
    - 2007-2008 Approved Standard: 2:1
        - 2007-2008 Actual Performance: 7:1
    - 2008-2008 Approved Standard: 2:1
- Number of applications processed.
    - 2007-2008 Approved Standard: 563
        - 2007-2008 Actual Performance: 1,288
    - 2008-2009 Approved Standard: 563
- Number of affordable housing loans funded.
    - 2007-2008 Approved Standard: 540
        - 2007-2008 Actual Performance: 1,174
    - 2008-2009 Approved Standard: 540
- State Housing Trust Fund Programs (SAIL, HAP, Guarantee Program, HOME match).
    - 1,174 Units funded
    - $126,129.59 Unit Cost
    - $148,076,138 Total Expenditures

State Housing Initiatives Partnership Program (s. 420.907-9079, F.S.) - The State Housing Initiatives Partnership Program (SHIP) provides state funds to local governments on a population-based formula as an incentive to produce and preserve affordable housing for very-low, low, and moderate income persons or families.[52]Documentary stamp tax revenues deposited into the Local Government Housing Trust Fund are distributed on an entitlement basis to all 67 counties and to the 52 cities entitled to receive federal Community Block Development Grant funds. The minimum allocation per county is $350,000, and at least 65 percent of the funds available to each county and city must be reserved for home ownership for eligible persons. A minimum of 75 percent of SHIP funds must be used for construction-related activities. SHIP funds can be used to fund emergency repairs, new construction, rehabilitation, down payment and closing cost assistance, impact fees, property acquisition, matching dollars for federal programs, and homeownership counseling. Each participating local government may use up to ten percent of its SHIP funds for administrative expenses.

Performance Measures and Unit Cost Data:

- Number of local governments served under SHIP program.
    - 2007-2008 Approved Standard: 115
        - 2007-2008 Actual Performance: 117
    - 2008-2009 Approved Standard: 117
- SHIP – Local Governments Served.
    - 117 Units Served

[52] Section 420.0004, F.S., provides the following definitions for income-eligible persons participating in affordable housing programs: "extremely-low income persons or families" may not earn more than 30 percent of the statewide or area median annual adjusted household income, whichever is greater; "very-low income persons or families" may not earn more than 50 percent of the statewide median annual adjusted household income; "low-income persons or families" may not earn more than 80 percent of the statewide median annual adjusted household income; and "moderate-income persons or families" must earn less than 120 percent of the statewide or area median annual adjusted household income, whichever is greater.

  - $1,420,371.79 Unit Cost
  - $166,183,500 Total Expenditures
- Number of local governments under compliance monitoring for the SHIP program.
  - 2007-2008 Approved Standard: 115
    - 2007-2008 Actual Performance: 117
  - 2008-2009 Approved Standard: 117
- SHIP – Local Governments Monitored for Compliance.
  - 117 Units monitored
  - $3,559.83 Unit Cost
  - $416,500 Total Expenditures

Issues:
- How are funds distributed to eligible cities which include CBDG cities, and nonentitlement cities who execute an interlocal agreement?
- How many cities and counties have executed interlocal agreements?
- Why isn't formula for distribution to cities included in the local housing distributions section?

Community Workforce Housing Innovation Pilot Program (s. 420.5095, F.S.) - The Community Workforce Housing Innovation Pilot Program (CWHIP) was created in 2006 to provide affordable rental and homeownership community workforce housing for essential services personnel affected by the high cost of housing. The pilot program uses regulatory incentives and state and local funds to promote local public-private partnerships and to leverage government and private resources. The Legislature defined "workforce housing" as housing affordable to persons and families with a total annual household income that is not in excess of 140 percent of the area median income, or not in excess of 150 percent of the area median income in designated areas of critical state concern, and defined "essential services personnel" as persons in need of affordable housing who are employed in occupations or professions in which they are considered essential services personnel as that term is defined by each county or eligible municipality within a local housing assistance plan.

Performance Measures and 2007-2008 Unit Cost Data Per Development.[53]
- No performance measures apply.
- CWHIP – Affordable housing loans funded
  - 13 Units funded
  - $4,800,000 Unit Cost
  - $62,400,000 Total Expenditures

The Florida Housing Finance Corporation is authorized to provide loans for construction or rehabilitation of workforce housing on a competitive basis. The Legislature appropriated more than $112 million for the implementation of the CWHIP program in fiscal years 2006-07 and 2007-08, but no funds were appropriated in fiscal year 2008-09.

First Time Homebuyer Program - The Internal Revenue Code limits the use of private activity bonds issued as qualified mortgage bonds for homeownership to first time homebuyers. Under this authority, the Florida Housing Finance Corporation issues tax exempt mortgage revenue bonds for single family housing. Bond proceeds are used to originate 30-year, low-interest, fixed-rate mortgage loans through the corporation's First Time Homebuyer Program. Under the program, all purchasers must meet all eligibility criteria, must be credit worthy, and must meet income levels that do not exceed federal or state income limits.

Through 2001, the single family mortgage revenue bond program was a whole loan program and the various indentures securing the bonds bore the full risk of the loans. Now, the program is structured as a mortgage backed securities program with loans guaranteed by Fannie Mae, Freddie Mac and Ginnie Mae. Approximately 10 percent of the loans are whole loans and 90 percent are mortgage backed securities.

---

[53] Unit cost data per development can be found in the Florida Housing Finance Corporations "Long Range Program Plan, September 30, 2008"; at http://www.floridahousing.org/Home/AboutUs/StatePlanningandBudgetInformation/.

Down Payment Assistance Programs - In conjunction with the First Time Homebuyer's Program, the Florida Housing Finance Corporation has two down payment assistance programs.

- The Florida Assist Program provides zero percent interest, non-amortizing second mortgages of up to $10,000 to assist with down payment and closing costs. Applicants may not earn more than 80 percent of the area median income. No monthly payments are made and the loan comes due when the house is sold or the first mortgage is refinanced.
- The Home Ownership Assistance for Moderate Income Loan Program provides loans of up to $5,000 to assist with down payment and closing costs. Loans are offered at 5 percent, monthly payments are required, and applicants must earn less than 120 percent of the area median income.

Multifamily Mortgage Revenue Bonds -The Internal Revenue Code limits the use of private activity bond for exempt facilities to qualified residential rental projects meeting income set aside requirements under the Internal Revenue Code. Under this authority, and under statutory authority, the Florida Housing Finance Corporation issues mortgage revenue bonds for multifamily developments to provide below market rate loans to nonprofit and for profit developers who set aside a certain percentage of their units for persons and families meeting income requirements at both the state and federal levels.

HOME Investment Partnerships Program (s 420.5089, F.S.) - The federal HOME Investment Partnerships Program is a block grant program that provides formula grants to states and localities that communities use to fund activities that result in the construction, purchase, or rehabilitation of affordable rental housing or affordable homeownership housing. Funds may also be used to provide direct rental assistance to low-income persons. Rental limits under the HOME program are published by HUD each year, and maximum per unit rental subsidy limits and purchase-price limits are established annually. Each participating jurisdiction may use up to 10 percent of the annual allocation for program planning and administration, and must match 25 cents of every dollar received.

Forty percent of funds available are allocated to the state and each state allocation is calculated under a weighted formula. Sixty percent of the funds available are allocated to metropolitan cities, urban counties, and consortiums of geographically contiguous units of local government and the distribution is also calculated under a weighted formula. The Florida fiscal year 2008 allocations total $61.7 million and consist of $19.9 million for the state program, $1.2 million for two consortiums, with the remainder being distributed to 55 cities and 19 counties.[54]

The Florida Housing Finance Corporation uses the state allocation to offer non-amortizing, low-interest loans to developers of affordable housing who acquire, rehabilitate, or construct affordable rental housing. Loans are offered at the simple interest rate of zero percent to nonprofit applicants and at three percent to for profit applicants. The HOME program is designed for smaller developments in rural areas, but also targets such special needs as migrant farmworker housing, and housing for those with special needs.

Homeownership Pool Program - The Homeownership Pool Program (HPP) is a non-competitive and on-going program where developers reserve dedicated funds for eligible homebuyers to provide down payment assistance on a first-come, first-serve basis. The HPP is funded out of federal HOME Investment Partnerships Program through HUD and the state's HAP program. In FY 2008-09, the HPP dedicated amount is $10 million from the HOME Program.

Single-Family Mortgage Revenue Bond Program (s. 420.5089(3), F.S. - Under the HOME Investment Partnership Program, the corporation is authorized to make loans to homebuyers in connection with its single-family mortgage revenue bond program on a "first come, first served" basis, or as provided in the corporation's program rule. The Corporation may also issue revenue bonds to finance the origination of home mortgages for persons meeting low, moderate, and middle income requirements.

Issue:

- Corporation rule 67-25.002(24), F.A.C. has definition for "middle income" but there is nothing in statute.

[54] Information on the 2008 allocation is available at http://www.hud.gov/offices/cpd/about/budget/budget08/index.cfm.

Agency Advisory Committee

Affordable Housing Study Commission (s. 420.609, F.S.) - The Affordable Housing Study Commission was created in 1986 as a standing commission to evaluate to evaluate the state's affordable housing policy issues and programs. Each year, the commission recommends public policy changes to the Governor and to the Legislature to stimulate community development and revitalization, and to promote the production, preservation, and maintenance of affordable housing. In addition, the commission provides recommendations on existing and proposed housing initiatives to the Secretary of Community Affairs and the Florida Housing Finance Corporation. The commission consists of 21 members appointed by the Governor to represent a wide variety of housing and local government interests, and administrative support is provided by the staff of the corporation. Commissioners do not receive compensation but are eligible for expense reimbursements which are funded out of the State Housing Trust Fund. Although regular meetings are not statutorily required, the Study Commission meets around five times per year.

Special Programs and Initiatives

Shimberg Center for Affordable Housing at the University of Florida - Section 420.6075, F.S., provides that the research and planning responsibilities of the Department of Community Affairs include the collection of data on the need for affordable housing in the state. The Shimberg Center for Affordable Housing at the University of Florida is directed to perform the following functions:

- Quantify affordable housing needs in the state by analyzing available data, including information contained in the housing elements of the local comprehensive plans required under chapter 163, F.S.;
- Document the results since 1980 of all department administered programs that provide or act as incentives for housing production or improvement;
- Inventory the supply of affordable housing units made available through federal, state, and local programs, including the geographic distribution of available affordable housing units.
- Provide the Legislature with an annual updated housing report describing the supply of and need for affordable housing.
- Conduct research on program options to address the need for affordable housing, and on training models to be replicated or adapted to meet the needs of entities involved in housing development.

The Florida Housing Data Clearinghouse, which is jointly funded by the Florida Housing Finance Corporation and the Shimberg Center for Affordable Housing, was founded in 2000 to provide public access to statewide data on housing needs and supply, subsidized rental housing, and household demographics. The Clearinghouse collects data from the U.S. Census, other federal population and housing surveys, HUD, the U.S. Department of Agriculture Rural Housing Service, the Florida Housing Finance Corporation, and local housing finance authorities, as well as other entities involved in meeting the state's affordable housing needs. The Clearinghouse can be accessed online at http://flhousingdata.shimberg.ufl.edu/.

Low Income Housing Tax Credit (s. 420.5099, F.S.) - The federal Low-Income Housing Tax Credit[55] provides funding for the development costs of affordable housing by allowing a taxpayer to take a federal tax credit equal to a large percentage of the costs incurred for development of affordable rental housing. Capital is raised by syndicating the credit to an investor or a group of investors, and the credit is administered by the state agency which receives a fixed allocation of credits based on population. Credits are allocated annually by the U.S. Department of Treasury using a per capita amount times the state population plus the state's share of the national pool created by unused credits in other states. The per capita amount was $1.95 in 2007 and it is adjusted annually for inflation. The total amount of credits to be allocated by the Corporation in FY 2008-09 is $36.5 million.

The Florida Housing Finance Corporation is the state agency responsible for administering the credits allocated to Florida to ensure the maximum use of the credits available. The corporation givens special consideration in its application process to projects that target specific demographic groups such as the homeless and farmworkers, to projects that target geographic designations such as rural areas, urban infill areas, and the Florida Keys, and to projects that target the preservation of existing affordable housing. A housing credit allocation can be used for 10 consecutive years once a development is placed in service. Each development must set aside a minimum percentage of the total

[55] The Low-Income Housing Tax Credit is governed by s. 42, Title 26 of the Internal Revenue Code (26USC42.).

units for eligible low or very low income residents for the duration of the compliance period, which is a minimum of 30 years with the option to convert to market rates after the 14th year. At least 20 percent of the housing units must be set aside for households earning 50 percent or less of the area median income (AMI), or 40 percent of the units must be set aside for households earning 60 percent or less of the AMI.

Issue:

- Housing and Economic Recovery Act of 2008 (federal)
  - Authorizes an increase in the per capita credit amount of $.20 for calendar years 2008 and 2009.
  - The state aggregate credit amount is increased by an amount equal to 10 percent of the cap rounded to the next lowest multiple of $5,000.

Demonstration Loan Program (s. 420.507(41), F.S. - The Florida Housing Finance Corporation is authorized to conduct demonstration projects and programs to further the corporation's goals of meeting the state's affordable housing needs. Examples of demonstration projects include adult assisted living facilities, youth aging out of the foster care system, and funding the purchase of transition units by entities providing assistance to victims of domestic violence. The Demonstration Loan Program is funded out of the Corporation's retained earnings.

Issue:

- Criteria for demonstration projects and programs can be by rule or by requests for proposals. The Legislature may wish to consider clarifying the Demonstration Loan Program by defining what a demonstration loan project is.

Preservation Rehabilitation Pilot Program (2008 General Appropriations Act) - The 2008 General Appropriations Act provides that $10 million in non-recurring funds from the Local Government Housing Trust Fund be used to fund a preservation rehabilitation pilot program in Pasco, Palm Beach, and Orange counties that targets affordable rental housing. The rental housing must be receiving or have received funding from any federal or state housing funding program. The appropriated funds must be leveraged by intermediaries at a rate of at least 4 to 1 to the maximum extent possible.

Hurricane Related Housing Issues

In the aftermath of the 2004 hurricane season, Governor Bush issued Executive Order 04-240 to create the Hurricane Housing Work Group to address housing and community needs due to the impact of the four hurricanes that devastated Florida within a six-week period. The Work Group was asked to assess and make recommendations on the best use of one-time state and federal dollars, and to identify regulatory barriers that hindered the rebuilding of suitable housing. The Work Group issued its report in February 2005[56], which recommended the creation of a locally administered Hurricane Housing Recovery Program, a Rental Recovery Program, and a Farmworker Housing Recovery and Special Housing Assistance and Development Program. The Work Group further recommended that the Florida Housing Finance Corporation administer the Hurricane Housing Recovery Program. In 2005 and in 2006, the Legislature provided the corporation with the authority to adopt emergency rules to implement housing recovery efforts.

The Hurricane Housing Recovery Program was established to enable local governments impacted by the 2004 hurricanes to develop and implement long-term affordable housing strategies for their communities. The Hurricane Housing Work Group created a program that was similar to the SHIP program but that contained more flexibility to address recovery needs. Local governments were to develop and submit disaster recovery plans to the Florida Housing Finance Corporation that outlined how appropriated funds would be spent. In 2005, the Legislature appropriated $208 million for the Hurricane Housing Recovery Program.

[56] "Hurricane Housing Work Group Recommendations to Assist in Florida's Long Term Housing Recovery Efforts," February 2005, http://www.floridahousing.org/NR/rdonlyres/0FDD6316-9938-49E9-A743-4CE3F16DC1BB/0/hurricanehousingworkgroupreportfinal.pdf

Performance Measures:

- Local governments served in Hurricane Housing Recovery Program.
  - 2007-2008 Approved Standard: 28
    - 2007-2008 Actual Performance: 28
  - 2008-2009 Approved Standard: 28
- Local governments under compliance monitoring in the Hurricane Housing Recovery Program.
  - 2007-2008 Approved Standard: 28
    - 2007-2008 Actual Performance: 28
  - 2008-2009 Approved Standard: 28

The Rental Housing Recovery Program was created to provide funds to affordable housing developers as a means of leveraging federal mortgage revenue bond authority to facilitate the production of additional affordable housing rental stock in areas hurt by the hurricanes. In 2005, the Legislature appropriated $42 million for the Rental Housing Recovery Program. In 2006, the Legislature appropriated an additional $92.9 million in rental housing recovery funds.

The Farmworker Housing Recovery Program and the Special Housing Assistance and Development Program were created to provide financing for the construction and rehabilitation of rental developments for farmworkers, with special targeting to migrant farmworkers, disabled persons, frail elders, and homeless persons. In 2006, the Legislature appropriated $15 million to fund the farmworker and special housing assistance programs.

Trust Funds, Corporation Funds

State Housing Trust Fund (s. 420.0005, F.S.) - The State Housing Trust Fund (SHTF) was created in 1988 as the repository for funds received by the Florida Housing Finance Agency, and was to be administered by the Department of Community Affairs and the agency under the provisions of chapter 420. The SHTF was to be credited with all legislative appropriations and moneys received from other sources to meet the purposes of chapter 420, and all loan repayments, penalties, and other fees and charges collected were to be credited in full to the program account within the trust fund from which the loan originated. The agency was authorized to use the SHTF for administrative and personnel costs. Moneys in the SHTF which were not used by the agency could be invested and interest on the investments was to be credited back to the trust fund.

In 1992, the use of moneys in the SHTF for agency administrative and personnel costs was limited to not more than 5 percent of the moneys deposited into the trust fund. In 1997, when the Florida Housing Finance Corporation was created as the successor to the Florida Housing Finance Agency, the corporation was provided with the authority to be the administrator of the SHTF on behalf of the DCA. Moneys deposited to the SHTF are to be transferred quarterly, if available, and only when the Secretary of Community Affairs certifies that the corporation is in compliance with the multiyear contract. Moneys transferred from the SHTF by the state's Chief Financial Officer must be deposited by the corporation into the State Housing Fund to be used as required under chapter 420.
The State Housing Trust Fund receives about $243 million each year in documentary stamp tax revenues and that amount can be adjusted for revenue growth, of which $173 million is transferred to the Local Government Housing Trust Fund and $70 million is used by the corporation to fund the State Apartment Incentive Loan (SAIL) program, the Homeownership Assistance Program, the Predevelopment Loan Program, as well as other state housing programs.

State Housing Fund (s. 420.0005, F.S.) - In 1997, the Legislature authorized the Florida Housing Finance Corporation to create the State Housing Fund (fund) as a separate fund established with a qualified depository[57] to be used to meet the purposes of chapter 420. The corporation may use up to 5 percent of moneys deposited into the fund for administrative and personnel expenses, and all loan repayments, penalties, and other fees and charges collected were to be credited in full to the program account within the fund from which the loan originated. Moneys in the fund which are not used by the corporation can be invested and interest on the investments is to be credited back to the fund.

---

[57] A "qualified public depository" is a bank, savings bank, or savings association that is organized and exists under the laws of the United States, or any other state or territory, has its principal place of business in Florida or has a branch office authorized to receive deposits in Florida, has deposit insurance as required under federal law, meets all the requirements of chapter 280, and has been designated by the Chief Financial Officer as a qualified public depository (s. 280.02(26), F.S.).

Local Government Housing Trust Fund (s. 420.9079, F.S.) - The Local Government Housing Trust Fund (local trust fund) was created in 1992 to fund the State Housing Initiatives Partnership Program (SHIP) for the purpose of providing funding to local governments as an incentive to create partnerships to produce and preserve affordable housing. Funds not used for the SHIP program can be used by the corporation to administer a local government housing program under a scoring system that evaluates applications based on specific statutory criteria. The local trust fund receives up to $173 million in documentary stamp tax revenues each year and unused moneys can be invested with interest being credited to the local trust fund. The corporation may not use moneys in the local trust fund for administrative or personnel costs except that 1/2 of 1 percent of deposited funds may be used by the corporation for monitoring local government compliance with program requirements. Local trust fund dollars are also used to fund the Community Workforce Housing Innovation Pilot Program, the Preservation Pilot Program, as well as the Homeless Programs at Department of Children and Families.

Florida Housing Finance Corporation Fund (s. 420.508(5), F.S.) - In 1997, the Legislature authorized the corporation to create the Florida Housing Finance Corporation Fund (corporation fund) as a separate fund established with a qualified depository to be administered by the corporation in accordance with the requirements of chapter 420. The corporation fund is authorized to receive all fees collected by the corporation from the federal government for administering the U.S. Department of Housing and Urban Development's Section 8 housing program, all annual administrative fees collected for bond programs and remitted to the corporation, all expense fees related to the cost of bond issuance remitted to the corporation, and all tax credit program fees. The corporation fund can be used for corporation purposes, including administrative expenses, and expenditures from the corporation fund are not required to be included in the Florida Housing Finance Corporation's legislative budget request and are not subject to appropriation by the Legislature.

Affordable Housing Guarantee Fund (s. 420.5092(2)(e), F.S. - The Affordable Housing Guarantee Fund was created in 1992 and is the repository for the proceeds of bonds issued under the Florida Affordable Housing Guarantee Program. The fund may also receive interest earned on bond proceeds; fees, charges, and reimbursements established by the Corporation for issuing affordable housing guarantees; and any other revenues received by the Corporation as a result of the issuance of affordable housing guarantees.

Housing Predevelopment Fund (s. 420.525, F.S.) - The Housing Predevelopment Fund (predevelopment fund) was authorized by the Legislature in 1988 as a separate trust fund to be administered by the Department of Community Affairs and used to fund the Predevelopment Loan Program. Revenues consist of legislative appropriations, proceeds from the repayment of predevelopment loans, proceeds from the sale of property, moneys from the State Housing Trust Fund, and other moneys as provided by law. In 1992, administrative authority over the fund was transferred to the Florida Housing Finance Agency and in 1997, that authority was transferred to the Florida Housing Finance Corporation. The fund is established with a qualified public depository and moneys may also be used for the administrative and personnel expenses of the corporation incurred in running the Predevelopment Loan Program. Expenditures from the predevelopment fund are not required to be included in the corporation's annual legislative budget request and are not subject to appropriation by the Legislature.

Florida Homeownership Assistance Fund (ss. 420.5088(4), F.S.) - The Florida Homeownership Assistance Trust Fund was created in the State Treasury in 1988 to fund the Florida Homeownership Assistance Program using moneys appropriated to the State Housing Trust Fund for purposes of homeownership assistance. Existing funds in the Affordable Housing Demonstration Loan Program and the Affordable Housing Trust Fund were transferred. No more than 1/5 of the funds in the trust fund could be made available to provide loan loss insurance reserve funds to promote homeownership for persons meeting certain income restrictions. In 1997, the Legislature authorized the corporation to create the Florida Homeownership Assistance Fund in a qualified depository and transferred all funds remaining in the Florida Homeownership Assistance Trust Fund. The new fund receives moneys from the State Housing Trust Fund; all unencumbered funds, loan repayments, and proceeds from the sale of any property originally funded from the Homeownership Assistance Fund, and the proceeds of bonds issued under the corporation's Single Family Home Ownership Program. Expenditures are not required to be included in the corporation's annual legislative budget request and are not subject to appropriation by the Legislature.

HOME Investment Partnership Fund (ss. 420.5089(1), F.S.) - The Home Partnership Trust Fund was created in 1992 as part of the Sadowski Act to be administered by the Florida Housing Finance Agency for the purposes of the HOME Partnership Program. In 1997, the program name was changed to the HOME Investment Partnership Program and authority over the trust fund was transferred to the Florida Housing Finance Corporation. The corporation was authorized to establish and administer the HOME Investment Partnership Fund. Trust fund monies were transferred to the partnership fund and the trust fund was closed. The partnership fund is eligible to receive any moneys deposited to the State Housing Trust Fund for purposes of the Home Investment Partnership Program, and any other funds received for purposes of the partnership program, including loan repayments and proceeds from the sale of any property purchased using HOME Investment funds. Expenditures from the partnership fund may not be included in the corporation's budget request and are not subject to appropriation by the Legislature.

Summary

The sunset review of the Department of Community Affairs must be completed by July 2010. This report is the first part of two in which the divisions and programs of the department are identified and evaluated. The second report will be prepared during the 2009 interim.

The department is comprised of the Division of Community Planning and the Division of Housing and Community Development. The state's Division of Emergency Management and the Florida Housing Finance Corporation are attached to the department as separate budget entities. The Division of Emergency Management is the primary authority in natural disaster recovery while the Florida Housing Finance Corporation's primary mission is to implement the state's affordable housing policies.

Professional committee staff identified the various issues, performance measures, and unit cost data related to the programs of the department and its divisions, as well as those of the Division of Emergency Management and the Florida Housing Finance Corporation. The committee may wish to direct OPPAGA to conduct further research on the identified programs, issues, measures, and cost data.