

Tab 1		SB 250 by Flores; (Similar to H 00413) Pilot State Workforce Housing Tax Credit					
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Flores, Chair
Senator Farmer, Vice Chair

MEETING DATE: Wednesday, February 13, 2019

TIME: 1:30—3:00 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Flores, Chair; Senator Farmer, Vice Chair; Senators Broxson, Pizzo, and Simmons

TAB		BILL DESCRIPTION and SENATE COMMITTEE ACTIONS		COMMITTEE ACTION
1	SB 250 Flores (Similar H 413)	Pilot State Workforce Housing Tax Credit; Providing a credit, within a specified timeframe, against the corporate income tax for certain taxpayers owning interests in eligible workforce housing developments; requiring the Florida Housing Finance Corporation to make agency awards of the credit; creating the State Workforce Housing Tax Credit Program; requiring that state workforce housing tax credits be allowed against the insurance premium tax and retaliatory tax after applying certain deductions and credits, etc.		Fav/CS Yeas 5 Nays 0
		CA	02/13/2019 Fav/CS	
		FT		
		AP		

Other Related Meeting Documents

Click or tap here to enter text.**The Florida Senate**
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 250

INTRODUCER: Community Affairs Committee and Senator Flores

SUBJECT: State Workforce Housing Tax Credit

DATE: February 14, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 250 creates the State Workforce Housing Tax Credit Program to stimulate creative private sector initiatives to increase the supply of workforce housing in Florida. The program incentivizes developers to construct workforce rental housing targeted to serve residents with household incomes up to 90 percent of the area median income or up to 120 percent in areas of critical state concern. Taxpayers owning an interest in an eligible housing development may apply the tax credits against the state's insurance premium tax or insurance retaliatory tax over a 10-year period. The maximum aggregate dollar amount of tax credit awards is \$50 million in each of calendar years 2020, 2021, and 2022. Awards may not be made after 2022. Florida Housing Finance Corporation will administer the program.

II. Present Situation:

Florida Housing Finance Corporation

As a public corporation of the state,¹ Florida Housing Finance Corporation (Florida Housing) acts primarily as a financial institution. It utilizes federal and state resources to finance the development and preservation of affordable homeowner and rental housing and assist eligible homebuyers with financing and down payment assistance.

¹ Chapter 97-167, Laws of Fla., created Florida Housing as a public-private entity to replace the Florida Housing Finance Agency for the ostensible purposes of reducing bureaucracy and streamlining administrative processes.

Housed within the Department of Economic Opportunity, Florida Housing's powers and responsibilities are outlined in s. 420.507, F.S., and summarized below:

- To carry out analyses of housing needs within the state and ways of meeting those needs;
- To participate in federal housing programs and federal community development, insurance and guarantee programs;
- To develop and administer the state rental and homeownership programs as outlined in Florida Statutes;
- To designate and administer private activity tax-exempt bond allocation received by Florida Housing pursuant to Part VI of ch.159, F.S., between the single family and multifamily programs;
- To set standards for and monitor compliance of residential housing financed by Florida Housing; and
- To conduct demonstration programs and projects which further the statutory purposes of Florida Housing.²

Affordable housing is defined in terms of the income of the household living in the housing. Housing is generally said to be affordable when a family is spending no more than 30 percent of its income on housing.³ On the rental side, this includes utilities, while on the homeownership side, principal, interest, taxes, and insurance are all part of the equation.⁴

Resident eligibility for Florida Housing programs is typically governed by area median income (AMI) levels.⁵ The AMI eligibility for a particular program is determined by the county or group of counties in which the property is located as well as family size.⁶ Generally speaking:

- Extremely low-income means total household income up to 30 percent of AMI;⁷
- Very low-income means total household income from 30.01 to 50 percent of AMI;⁸
- Low-income means total household income from 50.01 to 80 percent of AMI;⁹ and
- Moderate income means total household income from 80.01 to 120 percent of AMI.¹⁰

Florida Housing works with the state and a variety of additional entities to fulfill its mission. Partnering non-state entities include private lenders and investors, mortgage and bond insurers, federal agencies, for profit and nonprofit developers and property managers, local governments, public housing authorities and local housing finance authorities.¹¹

² Florida Housing is also subject to the Government-in-the-Sunshine Law, the Public Records Act, the Administrative Procedure Act, and audits by the Chief Financial Officer for the State of Florida and the State Auditor General.

³ Florida Housing Finance Corporation, *Overview of Florida Housing Finance Corporation* (November 2018) (on file with the Senate Committee on Community Affairs).

⁴ *Id.*

⁵ AMI data is determined annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area.

⁶ *See supra* note 3.

⁷ *See* s. 420.0004(9), F.S.

⁸ *See* s. 420.0004(17), F.S.

⁹ *See* s. 420.0004(11), F.S.

¹⁰ *See* s. 420.0004(12), F.S.

¹¹ *Id.*

Florida Housing is eligible to receive both state and federal funding to execute its affordable housing programs. Principal state funding, if appropriated, comes from documentary stamp tax revenues distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund.¹² Programs supported by the two trust funds include the State Apartment Incentive Loan Program (SAIL),¹³ the State Housing Initiatives Partnership Program (SHIP),¹⁴ and the Affordable Housing Catalyst Program (Catalyst).¹⁵ No appropriations are made to Florida Housing from General Revenue.

SAIL provides gap financing to developers through non-amortizing, low-interest loans to leverage mortgage revenue bonds or federal Low Income Housing Tax Credit resources and obtain the full financing needed to construct affordable rental units for very low-income families. The SHIP program provides funds to all 67 counties and Florida's larger cities on a population based formula to finance and preserve affordable housing for very low, low, and moderate income families based on locally adopted housing plans. Catalyst provides on-site and telephone/e-mail technical assistance as well as training through workshops and webinars on state and federal affordable housing programs implemented in Florida.¹⁶

Pursuant to s. 420.507, F.S., Florida Housing is also authorized to receive funding directly from the federal government in connection with the corporation's programs.¹⁷ Major federal funding streams include Mortgage Revenue Bonds¹⁸ and the population-based allocation of federal Low Income Housing Tax Credits.

Federal Low Income Housing Tax Credit Program¹⁹

Through a federal population-based allocation to all states, the Low Income Housing Tax Credit (LIHTC) Program²⁰ provides rental developers with competitive 9 percent tax credits²¹ that they

¹² Section 201.15, F.S.

¹³ Section 420.5087, F.S.

¹⁴ Sections 420.907-420.9089, F.S.

¹⁵ Section 420.531, F.S.

¹⁶ Florida Housing provides significant information and data on these and its other programs on its website, available at <https://www.floridahousing.org/home>

¹⁷ See s. 420.507(33), F.S.

¹⁸ See *supra* note 3. Private activity tax-exempt bonds are allocated to Florida Housing pursuant to the calculation in Part VI of ch. 159, F.S., performed by the Division of Bond Finance on an annual basis. Florida Housing facilitates the issuance of bonds by serving in a conduit capacity to lend bond proceeds to multifamily developers to construct/rehabilitate rental housing serving low-income households.

¹⁹ Information in this section of the analysis not otherwise referenced is culled from Florida Housing Finance Corporation, *2017 Agency Analysis of HB 91 State Housing Tax Credit Program* (July 1, 2017) (on file with the Senate Committee on Community Affairs) and Florida Housing Finance Corporation, *Housing Credits Background*, available at <https://www.floridahousing.org/programs/developers-multifamily-programs/low-income-housing-tax-credits> (last visited Feb. 5, 2019).

²⁰ See Tax Reform Act of 1986 (P.L. 99-514).

²¹ The 9 percent credits are designed to compensate a developer for 70 percent of the building's qualified basis (construction costs) over the 10-year credit period. See Florida Housing Finance Corporation, *Overview of the State's Implementation of Rental Programs* (August 2017), available at <http://www.floridahousing.org/docs/default-source/aboutflorida/august2017/august2017/tab7.pdf> (last visited Feb. 6, 2019).

sell to investors²² in exchange for equity to finance the acquisition, rehabilitation, and new construction of affordable rental housing. Investors use the tax credits for a dollar-for-dollar reduction over ten years in their federal tax liability.²³ The equity infused into the housing transaction lowers the need for additional debt. Florida also receives authority to issue non-competitive housing tax credits that are awarded to developments financed with tax-exempt multifamily Mortgage Revenue Bonds.²⁴

Florida Housing administers the LIHTC Program in Florida. A Qualified Allocation Plan outlining how the credits will be used must be adopted by Florida Housing's board of directors and signed by the Governor.²⁵ Qualifying buildings for LIHTC allocations in Florida include garden, high-rise, townhouses, duplexes/quads, single family or mid-rise with an elevator. Ineligible development types include hospitals, sanitariums, nursing homes, retirement homes, trailer parks, and life care facilities. Federal LIHTC may be used in conjunction with other Florida Housing programs such as the HOME Investment Partnerships program,²⁶ SAIL, the Predevelopment Loan Program,²⁷ or the Multifamily Mortgage Revenue Bonds Program.²⁸ Florida's most recent annual 9 percent allocation for the LIHTC Program is estimated at \$57 million.²⁹

Eligibility Requirements for a LIHTC³⁰

In order to be eligible for a LIHTC allocation, developments must meet certain tests that restrict both the amount of rent that is assessed to tenants and the income of eligible tenants. The income test requires development owners to elect one of two income level thresholds, either a "20-50 test" or a "40-60 test." In order to satisfy the first test, at least 20 percent of the units must be occupied by individuals with income of 50 percent or less of AMI adjusted for family size. To satisfy the second test, at least 40 percent of the units must be occupied by individuals with income of 60 percent of AMI adjusted for family size. The 2018 Consolidated Appropriations Act (P.L. 115-141) added a third income test option that allows owners to average the income of tenants.

²² *Id.* According to Florida Housing, "rates recently have been ~92-97¢ on the dollar, but over time levels shift based on the financial market – e.g., lower (or impossible to sell) during the recession and higher during better times, based less on the need for affordable housing and more on the investor's tax burden."

²³ To clarify this, consider a new affordable housing apartment complex with a construction cost (known as "qualified basis" in LIHTC parlance) of \$1 million. A 9 percent credit would generate a stream of tax credits equal to \$90,000 (9% × \$1 million) per year for 10 years, or \$900,000 in total.

²⁴ See *supra* note 21. These are commonly referred to as "4 percent credits" and represent 30 percent of a building's qualified basis (construction costs) over the 10-year credit period.

²⁵ IRC § 42(m)(1)(B). See *Florida Housing Finance Corporation 2018 Qualified Allocation Plan*, available at http://www.floridahousing.org/docs/default-source/programs/developers-multifamily-programs/competitive/2018-qualified-allocation-plan.pdf?sfvrsn=3adb097b_2 (last visited Feb. 5, 2019).

²⁶ See s. 420.5089, F.S. HOME provides low-interest or zero-interest loans to developers to finance the construction and rehabilitation of homes and rental apartments.

²⁷ See s. 420.526, F.S. The Predevelopment Loan Program provides loans to eligible organizations for predevelopment activities such as title searches, engineering fees, appraisals, feasibility analyses, and earnest money deposits.

²⁸ See s. 420.509, F.S. The Multifamily Mortgage Revenue Bond Program uses both taxable and tax-exempt bonds to provide below market rate loans to developers who set aside a certain percentage of their apartments for low-income families.

²⁹ Florida Housing Finance Corporation, *How the Low-Income Housing Tax Credit (LIHTC) Process Works in Florida and Comparison to the Proposed State Housing Tax Credit* (Jan. 29, 2019) (on file with Senate Committee on Community Affairs).

³⁰ See IRC §42(g)(1).

The LIHTC Allocation Process³¹

Florida Housing awards allocations of competitive 9 percent LIHTC through a competitive Request for Application (RFA) allocation process pursuant to Florida Administrative Code Rule 67-60. After Florida Housing's board of directors makes a preliminary award, additional steps in the process include credit underwriting, a comprehensive market study, and the execution of a carryover allocation (in essence, a reservation) by Florida Housing. A carryover allocation spells out the requirements that the developer must meet and the timeframes for meeting them and "guarantees" the credit to the project for two years. All the buildings in the proposed development must be placed in service (i.e., a certificate of occupancy has been issued by the governing local jurisdiction) no later than the end of the second calendar year following the calendar year in which the carryover agreement was fully executed.³²

Claiming a LIHTC

Pursuant to IRS Code, a LIHTC for a building cannot be claimed by the taxpayer for tax purposes until the month after a certificate of occupancy is issued and all housing credit-restricted units in a particular building have been initially occupied by housing credit-qualified households.³³ Additionally, the developer must complete a final cost certification deemed acceptable by Florida Housing prior to the issuance of final documentation of the delivery of the tax credits to the applicant.³⁴ Upon satisfaction of these requirements, Florida Housing issues IRS Form 8609 for the building(s) which represent the delivery of the actual housing tax credits to the applicant.

LIHTC Compliance

The compliance period for LIHTC developments is 15 years beginning with the first year of the tax credit period.³⁵ Developments comply with federal LIHTC requirements to avoid recapture of tax credits. An extended use period restricts the eligibility of developments to receive an allocation of tax credits to only those developments that agree to keep the property income- and rent-restricted for an extended period of time. The term for this period is a minimum of 15 years in addition to the normal 15-year compliance period resulting in a total term of compliance period of 30 years.³⁶ States may add additional affordability restrictions. Florida's compliance period is a total of 50 years which includes the federal 30-year period.³⁷

³¹ See *supra* note at 29.

³² For example, if a carryover agreement was fully executed at any time during 2019, all of the buildings in a development must be placed in service by 12/31/2021.

³³ See IRC §42(i)(3)(A) and Department of Treasury, Internal Revenue Service, *Disposition Guide for Completing Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance or Building*.

³⁴ IRC §42(m)(2).

³⁵ IRC §42(i)(1). The first year is either the year placed in service year or subsequent year if a deferral was elected.

³⁶ I.R.C. §42(h)(6)(D)

³⁷ See *supra* note 29.

State Housing Tax Credit Program³⁸

Sections 420.5093 and 220.185, F.S., work in tandem to provide for the State Housing Tax Credit (SHTC) Program for purposes of increasing the supply of affordable housing in urban areas of the state. Unlike the federal LIHTC Program which is exclusively for rental development, the SHTC Program may be used for single family development, commercial facilities associated with housing and, more generally, allows for mixed use projects.³⁹ Additionally, Florida Statutes provide for the credit to be used in urban areas, rather than throughout the state as allowed by the federal LIHTC.⁴⁰

Similar to the LIHTC Program, the SHTC Program allows for credits of up to 9 percent for designated projects. The total tax credits allocated is defined as the total credits pledged over a 5-year period for all projects. Florida Housing is authorized to establish procedures for the allocation and distribution of the SHTC Program.⁴¹ Florida Housing must prepare an annual plan, which must be approved by the Governor, containing general guidelines for the SHTC Program.⁴²

The total amount of credits allocated for all projects may not exceed the amount appropriated for the SHTC Program in the General Appropriations Act.⁴³ Established in 1999,⁴⁴ the SHTC Program received an initial General Revenue appropriation of \$2.5 million.⁴⁵ No credits were issued that year and therefore no appropriated funds were utilized. According to Florida Housing, the SHTC has received no additional appropriations since 1999.⁴⁶

Definitions of Workforce Housing and Essential Personnel Services

As used in the Community Workforce Housing Innovation Pilot Program (CWHIP) provided by ch. 2006-69, Laws of Florida, “workforce housing” means housing affordable to natural persons or families whose total annual household income does not exceed 140 percent of AMI, adjusted for household size, or 150 percent of AMI, adjusted for household size, in areas of critical state concern⁴⁷ designated under s. 380.05, F.S., for which the Legislature has declared its intent to provide affordable housing.⁴⁸

³⁸ The State Workforce Housing Tax Credit Program provided for in CS/SB 250 is independent of this existing State Housing Tax Credit Program.

³⁹ Sections 420.5093(2) and (3), F.S.

⁴⁰ Sections 420.5093 (1) and (3), F.S.

⁴¹ Section 420.5093(2), F.S.

⁴² *Id.*

⁴³ Section 220.185(2)(b), F.S.

⁴⁴ Chapter 99-378, ss. 19-20, Laws of Fla.

⁴⁵ Chapter 99-378, s. 26, Laws of Fla.

⁴⁶ *See supra* note 19.

⁴⁷ Section 380.0552, F.S., designates the Florida Keys as an area of critical state concern, and includes legislative intent to provide affordable housing in close proximity to places of employment in the Florida Keys. Section 380.0555, F.S., provides a like designation and affordable housing legislative intent to the Apalachicola Bay Area.

⁴⁸ Section 420.5095(1)(a), F.S. Per the subsection, the intent to provide affordable housing also applies to areas that were designated as areas of critical state concern for at least 20 consecutive years prior to removal of the designation

Proviso language in recent General Appropriations Acts has dedicated SAIL funding to construct workforce housing to primarily serve low-income persons as defined in s. 420.0004, F.S.⁴⁹ This low-income persons definition for workforce housing stipulates that total household income does not exceed 80 percent of AMI within the state or within the county, whichever is greater.

“Essential services personnel” is defined within the CWHIP and SHIP programs. Section 420.5095(3), F.S., defines 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 defined by each county and eligible municipality within its respective local housing assistance plan pursuant to s.420.9075(3)(a). Section 420.9075(3)(a), F.S., requires each SHIP local housing assistance plan to include a definition of essential service personnel for the county or eligible municipality, including, but not limited to, teachers and educators, other school district, community college, and university employees, police and fire personnel, health care personnel, skilled building trades personnel, and other job categories.

Florida’s Insurance Premium Tax and Retaliatory Provision

Chapters 624 and 625, F.S., govern insurance premium taxes in Florida. Insurance premium taxes are imposed on insurance premiums and paid by insurance companies at the following rates: 1.75 percent on gross premiums minus reinsurance and return premiums; 1 percent on annuity premiums; and 1.6 percent on self insurers.⁵⁰

The state’s insurance retaliatory taxes⁵¹ are determined and assessed on the basis of "what if" a Florida-domiciled insurer were licensed and doing business in the insurer’s state of domicile and providing the same insurance products as the foreign insurer is writing in Florida.⁵²

Insurance premium tax revenue is distributed to the Municipal Firefighters’ Pension Fund⁵³ and the Municipal Police Officers’ Retirement Fund,⁵⁴ the Insurance Regulatory Trust Fund,⁵⁵ and the General Revenue Fund.⁵⁶ The Revenue Estimating Conference estimates Fiscal Year 2018-2019 insurance premium tax collections of \$777.2 million; distributions are projected as \$537.1 million to the General Revenue Fund, \$187.5 million to Firefighters’ and Police Trust Funds, and \$38.8 million to the Insurance Regulatory Trust Fund.⁵⁷

⁴⁹ See Proviso Specific Appropriation 2223, Chapter 2016-66, Laws of Fla.; Proviso Specific Appropriation 2225, Chapter 2017-70, Laws of Fla.; and Proviso Specific Appropriation 2225, Chapter 2018-9, Laws of Fla.

⁵⁰ See sections 624.509(1), F.S., 624.4621, F.S., and 624.509(1), F.S.

⁵¹ Section 624.5091, F.S.

⁵² Florida Senate Committee on Finance and Tax, *An Overview of Florida’s Insurance Premium Tax, Report Number 2007-122* (Oct 2006), available at http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim_reports/pdf/2007-122ftlong.pdf (last visited Feb. 5, 2019).

⁵³ Section 175.121(1), F.S.

⁵⁴ Section 185.10(1), F.S.

⁵⁵ Section 624.523(1), F.S.

⁵⁶ Section 624.509(3), F.S.

⁵⁷ Florida Revenue Estimating Conference, *2018 Florida Tax Handbook*, 110 available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2018.pdf> (last visited Feb. 4, 2019).

Among the credits that may be applied against insurance premium taxes are those for workers' compensation assessments,⁵⁸ the Municipal Firefighter Pension Fund,⁵⁹ the Municipal Police Officer's Pension Fund,⁶⁰ insurer employee's salaries,⁶¹ and contributions for nonprofit scholarship-funding organizations.⁶²

III. Effect of Proposed Changes:

The bill establishes the State Workforce Housing Tax Credit Program in an effort to stimulate creative private sector initiatives to increase the supply of workforce housing in the state. Under the program, taxpayers owning an interest in newly-constructed workforce rental housing developments may qualify for a tax credit to be claimed against the insurance premium tax due under s. 624.509(1), F.S., and the insurance retaliatory tax due under s. 624.5091, F.S. The bill repeals s. 220.185, F.S., the existing State Housing Tax Credit applied against corporate income tax due under ch. 220, F.S.

Section 1 amends s. 213.053, F.S., to ensure the confidentiality of tax credit information shared between Florida Housing and the DOR.

Section 2 amends s. 220.02, F.S., to remove a reference to the State Housing Tax Credit in s. 220.185, F.S., which is repealed in the bill.

Section 3 amends s. 220.13, F.S., to remove a reference to the State Housing Tax Credit in s. 220.185, F.S., which is repealed in the bill.

Section 4 repeals s. 220.185, F.S., which provides for a State Housing Tax Credit to be claimed against the corporate income tax.

Section 5 amends s. 420.502, F.S., to provide a legislative finding for the necessity to create a state housing finance strategy to provide workforce housing opportunities to essential services personnel.

Section 6 amends s. 420.503, F.S., to provide a definition for "essential services personnel," meaning natural persons or families whose total annual household income is at or below 120 percent of the area median income, adjusted for household size, and at least one of whom is employed as police and fire personnel, child care workers, teachers and education personnel, health care personnel, or service workers.

Section 7 amends s. 420.5093, F.S., to repurpose the State Housing Tax Credit Program as the State Workforce Housing Tax Credit Program administered by Florida Housing. Tax credits in the program must be awarded through competitive solicitations and may be awarded in conjunction with other Florida Housing financing such as federal Low-Income Housing Tax Credits, SAIL funding, or tax-exempt bonds.

⁵⁸ Section 440.51, F.S.

⁵⁹ Section 175.141, F.S.

⁶⁰ Section 185.12, F.S.

⁶¹ Sections 624.509(5)-(6), F.S.

⁶² Section 624.51055, F.S.

To qualify for the tax credit, at least 60 percent of the units in a proposed workforce housing development must be rent-restricted⁶³ and the total household income of renters of the units may not exceed 90 percent of AMI. This income limitation rises to 120 percent of AMI if the development is in specified designated areas of critical state concern under s. 380.05, F.S. An eligible workforce housing development must set aside at least 30 percent of units for essential services personnel, as defined in section 6 of the bill.

An eligible workforce housing development must have an “extended workforce housing commitment”⁶⁴ in effect as of the end of each calendar year for which the credit is sought. The bill also requires 50 percent of the tax credits awarded under the program to be set aside for developments that produce units affordable to persons whose total household income is below 90 percent of AMI.

Florida Housing may adopt rules necessary to administer the program and must establish procedures which, to the extent practicable, are similar to or consistent with the procedures established under section 42 of the Internal Revenue Code, relating to the federal Low Income Housing Tax Credit. Procedures are also required for compliance monitoring of the developments, including habitability standards, and for notifying the executive director of the DOR in the event of any noncompliance.

A State Workforce Housing Tax Credit final award may not exceed 9 percent of a development’s “qualified basis”⁶⁵ and may not exceed the amount that Florida Housing determines is necessary for the eligible workforce housing development’s financial feasibility and viability throughout the 10-year credit period. Procedures must be established for a cost certification process which include Florida Housing’s issuance of an eligibility statement to development owners for each residential building in a development. Florida Housing must also transmit a corresponding eligibility statement to the executive director of the DOR for purposes of applying the credit amount to the development owner’s tax liability. A preliminary and then final award process governs the ultimate eligible award certification.

Section 8 amends s. 624.509, F.S., specifying the order in which the State Workforce Housing Tax Credit and the existing tax credit in s. 624.51055⁶⁶ must be applied to the insurance premium tax.

Section 9 creates s. 624.51056, F.S. to establish a State Workforce Housing Tax Credit for taxpayers owning an interest in an eligible state workforce housing developments pursuant to s. 420.5093, F.S. The tax credit may be claimed against the insurance premium tax due under s.

⁶³ The gross rent for a residential unit may not exceed 30 percent of the “imputed income limitation applicable to the unit” which relates to the number of individuals and bedrooms in a unit.

⁶⁴ This commitment means an agreement between the taxpayer and Florida Housing which is substantially similar to the agreement specified in 26 U.S.C. s. 42(h)(6)(B). This essentially requires an extended period, beyond the 10-year compliance period in the bill, in which a development must remain income- and rent-restricted.

⁶⁵ The qualified basis of an eligible workforce housing development means the eligible basis (eligible construction costs) multiplied by the applicable fraction (percentage of units in a development that are “workforce housing units”). Qualified basis is, essentially, the total amount of development cost that is dedicated to workforce housing.

⁶⁶ Section 624.51055, F.S., pertains to a tax credit for contributions to eligible nonprofit scholarship-funding organizations.

624.509(1), F.S., and the retaliatory tax due under s. 624.5091, F.S., after the following existing deductions are made:

- Assessments made pursuant to s. 440.51, F.S., for administrative expenses related to workman's compensation;
- The credits for taxes paid under ss. 171.101 and 185.08, F.S., for pension trust funds for firefighters' and police officers' respectively;
- The credits for income taxes paid under ch. 220, F.S., for corporate income tax;
- The credit allowed under s. 624.509(5), F.S., for insurer salaries as such credit is limited by s. 624.509(6), F.S.; and
- The credit allowed under 624.51055, F.S., for contributions to nonprofit scholarship-funding organizations.

Florida Housing shall make preliminary agency awards of the credits, as outlined in section 7 of the bill, the maximum aggregate dollar amount of which is \$50 million in each of calendar years 2020, 2021, and 2022. Preliminary awards may not be made after 2022.

Taxpayers owning an interest in an eligible workforce housing development may annually claim the tax credits in one-tenth increments over a 10-year period, subject to a carry forward provision that permits unused credit amounts to be claimed within an 11-year period. The owner of a partnership, limited liability company, or corporation may allocate the annual credit amount among its partners, shareholders, members, or other taxpayers and must certify to the DOR the allocated portions of the credit as well as certain federal taxpayer identification information.

Credit recapture provisions apply if the year-over-year amount of the qualified basis decreases. In this event, Florida Housing must proportionately reduce the allowable credit amount and notify the taxpayer and the executive director of the DOR. The DOR is authorized to perform additional financial and technical audits and investigations of the tax credit applicant to verify the accuracy of the credit claim process and ensure compliance. If requested, Florida Housing must provide technical assistance with this accuracy and compliance verification. Should the DOR determine that tax credits were ineligibly received, these credits are subject to forfeiture.

Florida Housing may revoke or modify an eligibility statement or agency award to a tax credit applicant due to an applicant's false statements or representations. Florida Housing must notify the DOR of any revoked or modified orders affecting an eligibility statement and the taxpayer must notify the DOR of any change in its tax credit claimed.

Such taxpayer must file an amended return, specified by the DOR, and pay any required tax and interest within 60 days after receiving a revoked or modified tax credit notification. If the revocation or modification order is contested, the taxpayer shall file an amended return within 60 days after a final order is issued after proceedings.

A notice of deficiency may be issued by the DOR at any time within 3 years after a taxpayer receives formal notification that tax credits have been revoked or modified. If a taxpayer fails to notify the DOR of any changes to its tax credit claimed, a notice of deficiency may be issued at any time.

The provisions in s. 624.51056, F.S., apply to tax years beginning on or after January 1, 2020.

Section 10 reenacts s. 624.5091(1)(a), F.S., relating to the insurance retaliatory tax, to incorporate the amendment made to s. 624.509, F.S., in the bill.

Section 11 provides the bill takes effect on July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The program established in the bill creates a new State Workforce Housing Tax Credit which may be applied against the state's insurance premium tax and insurance retaliatory tax. The maximum aggregate dollar amount of tax credit awards is set at \$50 million for each of calendar years 2020, 2021, and 2022. Credits may not be awarded after 2022. The Revenue Estimating Committee has not yet determined the fiscal impact of the bill.

B. Private Sector Impact:

The tax credits will provide developers with an additional financial equity instrument to help fund workforce housing in the state.

C. Government Sector Impact:

Florida Housing and the DOR will incur costs related to their new responsibilities for allocating credits and administering the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 213.053, 220.02, 220.13, 420.502, 420.503, 420.5093, 624.509.

This bill reenacts s. 624.5091, F.S.

This bill creates s 624.51056, F.S.

This bill repeals s. 220.185, F.S.

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

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

CS by Community Affairs on February 13, 2019:

- Removes “pilot” from the bill’s title.
- Provides for separate “preliminary” and “final” agency awards of State Workforce Housing Tax Credits as part of the eligible workforce housing development certification process.
- Provides a legislative finding for the creation of affordable housing opportunities for essential services personnel and includes a definition for these personnel.
- Removes the ability for State Workforce Housing Tax Credits to be applied against corporate income tax liability.
- Repeals s. 220.185, F.S., which provides for a never-used State Housing Tax Credit for corporate income tax.
- Places authorizations, specifications, and administration of the State Workforce Housing Tax Credit Program within an amended and repurposed State Housing Tax Credit Program in s. 420.5093, F.S.
- Clarifies coordination between Florida Housing and the DOR with respect to identifying and confidentially transmitting tax credit and taxpayer information as well as establishing each entity’s responsibilities in tax credit recapture procedures.
- Establishes that State Workforce Housing Tax Credits will apply to tax years beginning on or after January 1, 2019.
- Reenacts s. 624.5091, F.S. on insurer retaliatory provisions.
- Makes clarifying and conforming cross references.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2019	.	
	.	
	.	
	.	

The Committee on Community Affairs (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (cc) is added to subsection (8) of
section 213.053, Florida Statutes, to read:

213.053 Confidentiality and information sharing.—

(8) Notwithstanding any other provision of this section,
the department may provide:

(cc) Information relating to tax credits taken under s.



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624.51056 to the Florida Housing Finance Corporation.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 2. Subsection (8) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(8) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 631.828, those enumerated in s. 220.191, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 220.195, those enumerated in s. 220.184, those enumerated in s. 220.186, those enumerated in s. 220.1845, those enumerated in s. 220.19, ~~those enumerated in s. 220.185,~~ those enumerated in s. 220.1875, those enumerated in s. 220.192, those enumerated in s. 220.193, those enumerated in s. 288.9916, those enumerated in s. 220.1899, those enumerated in s. 220.194, and those enumerated in s. 220.196.

Section 3. Paragraph (a) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount



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equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(a) *Additions.*—There shall be added to such taxable income:

1.a. The amount of any tax upon or measured by income, excluding taxes based on gross receipts or revenues, paid or accrued as a liability to the District of Columbia or any state of the United States which is deductible from gross income in the computation of taxable income for the taxable year.

b. Notwithstanding sub-subparagraph a., if a credit taken under s. 220.1875 is added to taxable income in a previous taxable year under subparagraph 10. ~~11.~~ and is taken as a deduction for federal tax purposes in the current taxable year, the amount of the deduction allowed shall not be added to taxable income in the current year. The exception in this sub-subparagraph is intended to ensure that the credit under s. 220.1875 is added in the applicable taxable year and does not result in a duplicate addition in a subsequent year.

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the associated expenses disallowed in the computation of taxable income under s. 265 of the Internal Revenue Code or any other law, excluding 60 percent of any amounts included in alternative minimum taxable income, as defined in s. 55(b)(2) of the Internal Revenue Code, if the taxpayer pays tax under s. 220.11(3).

3. In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the



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net long-term capital gain for the taxable year over the amount of the capital gain dividends attributable to the taxable year.

4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

6. The amount taken as a credit under s. 220.195 which is deductible from gross income in the computation of taxable income for the taxable year.

7. That portion of assessments to fund a guaranty association incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year.

8. In the case of a nonprofit corporation which holds a pari-mutuel permit and which is exempt from federal income tax as a farmers' cooperative, an amount equal to the excess of the gross income attributable to the pari-mutuel operations over the attributable expenses for the taxable year.

9. The amount taken as a credit for the taxable year under s. 220.1895.

~~10. Up to nine percent of the eligible basis of any designated project which is equal to the credit allowable for the taxable year under s. 220.185.~~

10.11. The amount taken as a credit for the taxable year



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under s. 220.1875. The addition in this subparagraph is intended to ensure that the same amount is not allowed for the tax purposes of this state as both a deduction from income and a credit against the tax. This addition is not intended to result in adding the same expense back to income more than once.

~~11.12.~~ The amount taken as a credit for the taxable year under s. 220.192.

~~12.13.~~ The amount taken as a credit for the taxable year under s. 220.193.

~~13.14.~~ Any portion of a qualified investment, as defined in s. 288.9913, which is claimed as a deduction by the taxpayer and taken as a credit against income tax pursuant to s. 288.9916.

~~14.15.~~ The costs to acquire a tax credit pursuant to s. 288.1254(5) that are deducted from or otherwise reduce federal taxable income for the taxable year.

~~15.16.~~ The amount taken as a credit for the taxable year pursuant to s. 220.194.

~~16.17.~~ The amount taken as a credit for the taxable year under s. 220.196. The addition in this subparagraph is intended to ensure that the same amount is not allowed for the tax purposes of this state as both a deduction from income and a credit against the tax. The addition is not intended to result in adding the same expense back to income more than once.

Section 4. Section 220.185, Florida Statutes, is repealed.

Section 5. Present subsections (5) through (8) of section 420.502, Florida Statutes, are redesignated as subsections (6) through (9), respectively, and a new subsection (5) is added to that section, to read:

420.502 Legislative findings.—It is hereby found and



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declared as follows:

(5) It is necessary to create a state housing finance strategy to provide affordable workforce housing opportunities to essential services personnel. The lack of affordable workforce housing has been exacerbated by an increasing population, rising interest rates, surging median home values, and the shortage of lower-cost housing units. As this state's population continues to grow, essential services personnel vital to this state's economy are unable to live in the communities where they serve, creating transportation congestion and hindering their quality of life and community engagement.

Section 6. Present subsections (18) through (42) of section 420.503, Florida Statutes, are redesignated as subsections (19) through (43), respectively, a new subsection (18) is added to that section, and subsection (15) of that section is amended, to read:

420.503 Definitions.—As used in this part, the term:

(15) "Elderly" means persons 62 years of age or older; however, this definition does not prohibit housing from being deemed housing for the elderly as defined in subsection (20) ~~(19)~~ if such housing otherwise meets the requirements of subsection (20) ~~(19)~~.

(18) "Essential services personnel" means natural persons or families whose total annual household income is at or below 120 percent of the area median income, adjusted for household size, and at least one of whom is employed as police and fire personnel, child care workers, teachers and education personnel, health care personnel, or service workers.

Section 7. Section 420.5093, Florida Statutes, is amended



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to read:

420.5093 State Workforce Housing Tax Credit Program.—

(1) There is created the State Workforce Housing Tax Credit Program for the purpose ~~purposes~~ of stimulating creative private sector initiatives to increase the supply of workforce ~~affordable~~ housing in this state. The corporation shall administer the program. Tax credits must be awarded through competitive solicitation and may be awarded in conjunction with other corporation financing, including low-income housing tax credits, SAIL funding, or tax-exempt bonds ~~urban areas, including specifically housing for the elderly, and to provide associated commercial facilities associated with such housing facilities.~~

(2) As used in this section, the term:

(a) "Annual credit amount" means an amount equal to one-tenth of a preliminary or final agency award to an eligible workforce housing development which may be claimed by the eligible workforce housing development in each year of the credit period.

(b) "Applicable fraction" means a fraction, the numerator of which is the number of workforce housing units in the eligible workforce housing development and the denominator of which is the number of residential rental units in the eligible workforce housing development.

(c) "Area median income" means the most recent calculation of median family income for the relevant geographic area as published by the United States Department of Housing and Urban Development.

(d) "Compliance period" means, with respect to any building



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that is, or is part of, an eligible workforce housing development, the period of 10 calendar years beginning with the first calendar year of the credit period.

(e) "Credit period" means, with respect to any building that is, or is part of, an eligible workforce housing development, the period of 10 calendar years beginning with the calendar year in which each eligible workforce housing residential building is placed in service.

(f) "Eligibility statement" means a statement issued by the corporation which certifies that a workforce housing residential building is an eligible workforce housing development. A separate eligibility statement must be issued for each building in a multiple building project. Each eligibility statement must provide:

1. The calendar year in which the workforce housing residential building in the eligible workforce housing development was placed in service;

2. The credit amount of the final agency award to the eligible workforce housing building;

3. The maximum qualified basis taken into account in determining the credit amount;

4. Sufficient information to identify the eligible workforce housing building and the owner of the eligible workforce housing development; and

5. Such other information as the corporation, in consultation with the Department of Revenue, determines is necessary or desirable.

(g) "Eligible basis" of an eligible workforce housing development means the total of the adjusted basis of each



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building of such eligible workforce housing development as of
the close of the first year of the credit period for each
building.

(h) "Eligible workforce housing development" means a
building or group of buildings located in this state in which at
least 60 percent of the residential units in the building are
rent-restricted workforce housing units.

(i) "Final agency award" means the allocation of a 10-year
stream of state workforce housing tax credits to an eligible
workforce housing development by the corporation, as stated on
the eligibility statement or on an amended eligibility
statement. A final agency award cannot exceed the preliminary
agency award.

(j) "Imputed income limitation applicable to the unit"
means the income limitation that applies to individuals
occupying the unit if the number of individuals occupying the
unit is:

1. In the case of a unit that does not have a separate
bedroom, one; or

2. In the case of a unit that has one or more separate
bedrooms, one and one half for each separate bedroom.

(k) "Preliminary agency award" means the allocation of a
10-year stream of state workforce housing tax credits to an
eligible workforce housing development by the corporation's
board of directors as part of a competitive solicitation
process.

(l) "Qualified basis" of an eligible workforce housing
development means the eligible basis multiplied by the
applicable fraction.



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(m) "Rent-restricted" means that the gross rent for a residential unit may not exceed 30 percent of the imputed income limitation applicable to the unit.

(n) "Workforce housing unit" means a residential unit in an eligible workforce housing development which is affordable to natural persons or families whose total annual household income is at or below 90 percent of the area median income, adjusted for household size; or is at or below 120 percent of the area median income, adjusted for household size, in:

1. Areas of critical state concern designated under s. 380.05, for which the Legislature has declared its intent to provide affordable housing; and

2. Areas that were designated as areas of critical state concern for at least 20 consecutive years before removal of the designation.

~~(3)(2) The Florida Housing Finance corporation shall determine those qualified projects which workforce housing developments are shall be considered designated projects under s. 220.185 and eligible for the insurance premium tax credit under s. 624.51056 corporate tax credit under that section. The corporation may exercise all powers necessary to administer the awarding of a preliminary and final agency award and the distribution of the tax credits. The corporation shall ensure that at least 50 percent of annual credits under this section are awarded to units that will only be income-restricted to natural persons or families whose total annual household income is below 90 percent of the area median income establish procedures necessary for proper allocation and distribution of state housing tax credits, including the establishment of~~



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~~eriteria for any single-family or commercial component of a
project, and may exercise all powers necessary to administer the
allocation of such credits. The board of directors of the
corporation shall administer the allocation procedures and
determine allocations on behalf of the corporation. The
corporation shall prepare a an annual plan, which must be
approved by the Governor, containing general guidelines for
preliminary and final agency awards to eligible workforce
housing developments the allocation and distribution of credits
to designated projects.~~

(4)(3) The corporation may adopt rules necessary to
administer this section. The corporation shall establish adopt
allocation procedures for agency awards consistent with s.
624.51056 and this section which that will ensure the maximum
use of available tax credits in order to encourage development
of workforce low-income housing and associated mixed-use
projects in urban areas, taking into consideration the
timeliness of the application, the location of the proposed
project, the relative need in the area of revitalization and
low-income housing and the availability of such housing, the
economic feasibility of the project, and the ability of the
applicant to proceed to completion of the project in the
ealendar year for which the credit is sought. To the extent
practicable, these procedures must be similar to or consistent
with the procedures established under s. 42 of the Internal
Revenue Code relating to low-income housing tax credits. To the
extent permitted under 42 U.S.C. ss. 3601-3619 and regulations
promulgated thereunder, the corporation shall ensure that
projects awarded credits under this section set aside at least



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30 percent of their units to be rented by families with
essential services personnel as defined in s. 420.503(18).

(5) (a) ~~(4) (a)~~ A taxpayer wishing who wishes to participate
in the State Workforce Housing Tax Credit Program must submit to
the corporation an application for a preliminary agency award
tax credit to the corporation. The application must shall
identify the proposed workforce housing development project and
its location and must include evidence that the proposed
development project is an eligible workforce housing development
a qualified project as defined in s. 220.185. The corporation
may request any information from an applicant which is necessary
to allow enable the corporation to make a preliminary or final
agency award under tax credit allocations according to the
guidelines set forth in subsection (3).

(b) The final agency award may not exceed 9 percent of the
qualified basis of each residential building in an eligible
workforce housing development. The credit amount of the final
agency award to any residential building in an eligible
workforce housing development may not exceed the amount that the
corporation determines is necessary for the eligible workforce
housing development's financial feasibility and its viability as
an eligible workforce housing development throughout the credit
period. In determining the final agency award, the corporation
shall specify the qualified basis that may be taken into account
under this section with respect to each residential building in
the eligible workforce housing development The corporation's
approval of an applicant as a designated project shall be in
writing and shall include a statement of the maximum credit
allowable to the applicant. A copy of this approval shall be



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~~transmitted to the executive director of the Department of
Revenue, who shall apply the tax credit to the tax liability of
the applicant.~~

(c) The corporation shall establish procedures for the
owner of an eligible workforce housing development to provide a
cost certification demonstrating that the final agency award
does not exceed 9 percent of the qualified basis of each
residential building in the eligible workforce housing
development. Once such cost certification is accepted and
approved by the corporation, the corporation shall issue to the
owner of the eligible workforce housing development an
eligibility statement for each residential building. The
corporation shall transmit a copy of the eligibility statement
to the executive director of the Department of Revenue, who
shall apply the annual credit amount to the tax liability of the
owner of the eligible workforce housing development or its
constituent taxpayers as specified in s. 624.51056.

(d) A tax credit in the amount of the annual credit amount
is not allowed for any year with respect to a residential
building in an eligible workforce housing development unless an
extended workforce housing commitment is in effect as of the end
of the calendar year. As used in this paragraph, the term
"extended workforce housing commitment" means an agreement
between the taxpayer and the Florida Housing Finance Corporation
which is substantially similar to the agreement specified in 26
U.S.C. s. 42(h)(6)(B).

(6) The corporation shall establish such procedures as it
deems necessary for monitoring an eligible workforce housing
development's compliance with this section, including



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359 habitability standards, and for notifying the executive director
360 of the Department of Revenue of any noncompliance of which it
361 becomes aware.

362 ~~(5) For purposes of implementing this program and assessing~~
363 ~~the property for ad valorem taxation under s. 193.011, neither~~
364 ~~the tax credits nor financing generated by tax credits shall be~~
365 ~~considered as income to the property, and the actual rental~~
366 ~~income from rent-restricted units in a state housing tax credit~~
367 ~~development shall be recognized by the property appraiser. In~~
368 ~~considering or using the market or cost approaches under s.~~
369 ~~193.011, neither the costs paid for by tax credits nor the costs~~
370 ~~paid for by additional financing proceeds received because the~~
371 ~~property is in the program shall be included in the valuation.~~

372 ~~(6) For the further purpose of implementing this program in~~
373 ~~Florida and in assessing the property for ad valorem taxation~~
374 ~~under s. 193.011, any extended low income housing agreement and~~
375 ~~all amendments and supplements thereto which are recorded and~~
376 ~~filed in the official public records of the county where the~~
377 ~~property is located shall be deemed a land use regulation during~~
378 ~~the term of any such agreement, amendment, or supplement.~~

379 ~~(7) The corporation is authorized to expend fees received~~
380 ~~in conjunction with the allocation of state housing tax credits~~
381 ~~only for the purpose of administration of the program, including~~
382 ~~private legal services which relate to interpretation of s. 42~~
383 ~~of the Internal Revenue Code.~~

384 Section 8. Subsection (7) of section 624.509, Florida
385 Statutes, is amended to read:

386 624.509 Premium tax; rate and computation.—

387 (7) Credits and deductions against the tax imposed by this



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section shall be taken in the following order: deductions for assessments made pursuant to s. 440.51; credits for taxes paid under ss. 175.101 and 185.08; credits for income taxes paid under chapter 220 and the credit allowed under subsection (5), as these credits are limited by subsection (6); the credit allowed under s. 624.51055; the credit allowed under s. 624.51056; all other available credits and deductions.

Section 9. Section 624.51056, Florida Statutes, is created to read:

624.51056 State workforce housing tax credit.—

(1) AUTHORIZATION TO GRANT STATE WORKFORCE HOUSING TAX CREDITS; LIMITATIONS.—

(a) A taxpayer owning an interest in one or more eligible workforce housing developments who receives an eligibility statement from the Florida Housing Finance Corporation pursuant to s. 420.5093 may claim a tax credit against any tax due under s. 624.509(1) or s. 624.5091 after deducting from the tax the deductions for assessments made pursuant to s. 440.51; the credits for taxes paid under ss. 175.101 and 185.08; the credits for income taxes paid under chapter 220; the credit allowed under s. 624.509(5), as such credit is limited by s. 624.509(6); and the credit allowed under s. 624.51055. The tax credits issued pursuant to the eligibility statement may be claimed in each year of the credit period only in amounts equal to the annual credit amount, unless carried forward pursuant to paragraph (d). The amount of the final agency award and each annual credit amount must be stated on the eligibility statement. A copy of the eligibility statement must be attached to each tax return for which the taxpayer seeks to apply a tax



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credit.

(b) The Florida Housing Finance Corporation shall make preliminary agency awards in calendar year 2020, calendar year 2021, or calendar year 2022 as set forth in this paragraph. A preliminary agency award may not be made after 2022. The maximum aggregate credit amount of preliminary agency awards to eligible workforce housing developments is \$50 million in 2020, \$50 million in 2021, and \$50 million in 2022. The limitation in this paragraph on preliminary agency awards does not apply to the annual credit amount claimed with respect to an eligible workforce housing development for each year of the credit period.

(c) If an owner of an eligible workforce housing development which receives an eligibility statement is a partnership, limited liability company, or corporation, the owner may distribute the annual credit amount among its partners, shareholders, members, or other constituent taxpayers in any manner agreed to by such partners, shareholders, members, or other constituent taxpayers with an insurance premium tax liability. Each year of the credit period, the owner shall certify to the Department of Revenue the portion of the annual credit amount distributed to each partner, shareholder, member, or other constituent taxpayer as well as the name, address, and federal taxpayer identification number of each partner, shareholder, member, or other constituent taxpayer. Each partner, shareholder, member, or other constituent taxpayer is allowed to claim such portion of the annual credit amount subject to the restrictions in this section. A copy of the allocation of annual credit certification must be attached to



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each tax return for which the partner, shareholder, member, or other constituent taxpayer seeks to apply its allocated portion of the owner's annual credit.

(d) Any amount of credit which exceeds the tax due for any year may be carried forward as a tax credit against subsequent years' insurance premium tax liability for up to 11 tax years after the year in which the annual credit amount was available to the taxpayer pursuant to paragraph (a). Such credit must be applied first to the earliest years possible. Any amount of the credit which is not used may not be refunded to the taxpayer.

(e) An insurer claiming a credit against premium tax liability under this section is not required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such credit, and that section does not limit such credit.

(2) CREDIT RECAPTURE.—

(a) As of the close of any year in the compliance period, if the amount of the qualified basis of any building with respect to the taxpayer is less than the amount of the qualified basis as of the close of the preceding year, the Florida Housing Finance Corporation shall proportionally reduce the credit allowable with respect to such year by the percentage reduction in the qualified basis. The Florida Housing Finance Corporation shall notify the taxpayer in writing of any modification of the credit and transmit a copy of such notification to the executive director of the Department of Revenue.

(b) In addition to its existing audit and investigation authority, the Department of Revenue may perform any additional financial and technical audits and investigations, including



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examining the accounts, books, and records of the tax credit applicant, which are necessary to verify the accuracy of the return and to ensure compliance with this section. If requested by the Department of Revenue, the Florida Housing Finance Corporation must provide technical assistance for any technical audits or examinations performed under this subsection.

(c) If the Department of Revenue determines as a result of an audit or examination, or from information received from the Florida Housing Finance Corporation, that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled, the previously claimed and received tax credits are subject to forfeiture.

(d) The Florida Housing Finance Corporation may revoke or modify any eligibility statement or agency award granting eligibility for tax credits under this section if it is discovered that the tax credit applicant submitted any false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive tax credits under this section. The Florida Housing Finance Corporation shall immediately notify the Department of Revenue of any revoked or modified orders affecting a previously issued eligibility statement. Additionally, the taxpayer must notify the Department of Revenue of any change in its tax credit claimed.

(e) The taxpayer shall file with the Department of Revenue an amended return or such other report as the Department of Revenue prescribes by rule and shall pay any required tax and interest within 60 days after the taxpayer received notification from the Florida Housing Finance Corporation that previously



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approved tax credits have been revoked or modified. If the
revocation or modification order is contested, the taxpayer must
file an amended return or other report as provided in this
paragraph within 60 days after a final order is issued after
proceedings.

(f) A notice of deficiency may be issued by the Department
of Revenue at any time within 3 years after the taxpayer
receives formal notification from the Florida Housing Finance
Corporation that previously approved tax credits have been
revoked or modified. If a taxpayer fails to notify the
Department of Revenue of any changes to its tax credit claimed,
a notice of deficiency may be issued at any time.

(3) APPLICABILITY.—This section applies to tax years
beginning on or after January 1, 2020.

Section 10. For the purpose of incorporating the amendment
made by this act to section 624.509, Florida Statutes, in a
reference thereto, paragraph (a) of subsection (1) of section
624.5091, Florida Statutes, is reenacted to read:

624.5091 Retaliatory provision, insurers.—

(1)(a) When by or pursuant to the laws of any other state
or foreign country any taxes, licenses, and other fees, in the
aggregate, and any fines, penalties, deposit requirements, or
other material obligations, prohibitions, or restrictions are or
would be imposed upon Florida insurers or upon the agents or
representatives of such insurers, which are in excess of such
taxes, licenses, and other fees, in the aggregate, or which are
in excess of the fines, penalties, deposit requirements, or
other obligations, prohibitions, or restrictions directly
imposed upon similar insurers, or upon the agents or



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representatives of such insurers, of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses, and other fees, in the aggregate, or fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the Department of Revenue upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in this state. In determining the taxes to be imposed under this section, 80 percent and a portion of the remaining 20 percent as provided in paragraph (b) of the credit provided by s. 624.509(5), as limited by s. 624.509(6) and further determined by s. 624.509(7), shall not be taken into consideration.

Section 11. This act shall take effect July 1, 2019.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to state housing tax credits; amending s. 213.053, F.S.; authorizing the Department of Revenue to provide information on taken state workforce housing tax credits to the Florida Housing Finance Corporation; amending ss. 220.02 and 220.13, F.S.; conforming provisions to changes made by the act; repealing s. 220.185, F.S., relating to the state housing tax credit; amending s. 420.502, F.S.;



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providing legislative intent; amending s. 420.503,
F.S.; defining the term "essential services
personnel"; conforming a cross-reference; amending s.
420.5093, F.S.; replacing provisions relating to the
State Housing Tax Credit Program with provisions
relating to the State Workforce Housing Tax Credit
Program; providing the purpose of the program;
providing for an insurance premium and retaliatory tax
credit to certain workforce housing developments;
requiring the corporation to administer the program;
specifying requirements, procedures, and authorized
actions of the corporation in determining eligibility
for, and awarding, tax credits; defining terms;
requiring the corporation to prepare a certain plan;
authorizing the corporation to adopt rules; requiring
the corporation to establish specified procedures for
agency awards; specifying application requirements;
specifying limits on, and criteria for determining,
final agency awards; specifying requirements for cost
certifications and eligibility statements; requiring
the executive director of the Department of Revenue to
apply annual credit amounts to tax liabilities in a
certain manner; requiring that an extended workforce
housing commitment be in effect, under certain
circumstances, for a certain tax credit to be allowed;
defining the term "extended workforce housing
commitment"; requiring the corporation to establish
certain procedures; amending s. 624.509, F.S.;
specifying the order in which certain credits must be



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taken against the premium tax; creating s. 624.51056, F.S.; authorizing certain taxpayers to claim a credit against the premium tax and retaliatory tax; specifying a limitation on claiming the credit; providing requirements for the eligibility statement; requiring the corporation to make preliminary agency awards in certain years; specifying the limit on such awards; authorizing certain owners of eligible workforce housing developments to distribute credit amounts among its constituent taxpayers; specifying requirements for such owners; providing for the carryforward of unused tax credits for a specified period; providing that unused credits may not be refunded; providing that certain insurers are not required to pay additional retaliatory tax; specifying requirements and procedures for credit recapture; providing applicability; reenacting s. 624.5091(1)(a), F.S., relating to the retaliatory tax, to incorporate the amendment made to s. 624.509, F.S., in a reference thereto; providing an effective date.



2019 AGENCY LEGISLATIVE BILL ANALYSIS DEPARTMENT OF REVENUE

BILL INFORMATION

BILL NUMBER:	SB 250
BILL TITLE:	Pilot State Workforce Housing Tax Credit
BILL SPONSOR:	Senator Flores
EFFECTIVE DATE:	7/1/2019

COMMITTEES OF REFERENCE

1) Community Affairs
2) Finance and Tax
3) Appropriations
4)
5)

CURRENT COMMITTEE

Community Affairs

SIMILAR BILLS

BILL NUMBER:	HB 413
SPONSOR:	Representative Aloupis

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	

PREVIOUS LEGISLATION

YEAR BILL NUMBER/SPONSOR/LAST ACTION: NONE

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	January 23, 2019
LEAD AGENCY ANALYST:	Debbie Longman (850) 617-8324

POLICY ANALYSIS

1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.

Section 1. State workforce housing tax credit. (pp. 2-8):

PRESENT SITUATION

There is presently no credit available against corporate income tax for increasing the supply of workforce housing in the state.

EFFECT OF THE BILL

The bill creates s. 220.1855, F.S., which provides a tax credit against corporate income tax for a taxpayer owning an interest in one or more eligible workforce housing developments if the owner of the eligible workforce housing development receives an agency award from the Florida Housing Finance Corporation (the corporation). If the owner of the eligible housing development is a partnership, limited liability company, S corporation, or similar pass-through entity, the owner may divide the annual tax credit among its partners, shareholders, members, or other constituent taxpayers.

The tax credits awarded pursuant to the agency award must be claimed in each year of the 10-year credit period in amounts equal to the annual credit amount (one-tenth of the total award) unless carried forward. Any amount of credit which exceeds the tax due for any year may be carried forward as a tax credit against subsequent years' income tax liability for up to 11 tax years after the year in which the annual credit amount was made. Such credit must be applied first to the earliest years possible. Any amount of the credit which is not used may not be refunded to the taxpayer.

The amount of the agency award and each annual credit amount must be stated on the eligibility statement.

The Florida Housing Finance Corporation will make agency awards in calendar year 2020, calendar year 2021, or calendar year 2022. An agency award may not be made after 2022.

A tax credit in the amount of the annual credit amount is not allowed for any year with respect to an eligible workforce housing development unless an extended workforce housing commitment is in effect as of the end of the calendar year. The term "extended workforce housing commitment" means an agreement between the taxpayer and the Florida Housing Finance Corporation which is substantially similar to the agreement specified in section 42(h)(6)(B) of the Internal Revenue Code.

If an owner of an eligible workforce housing development which receives an agency award is a partnership, limited liability company, S corporation, or similar pass-through entity, the owner may allocate the annual credit amount among its partners, shareholders, members, or other constituent taxpayers in any manner agreed to by such partners, shareholders, members, or other constituent taxpayers. Each year of the credit period, the owner must certify to the Florida Housing Finance Corporation the portion of the annual credit amount allocated to each partner, shareholder, member, or other constituent taxpayer. Each partner, shareholder, member, or other constituent taxpayer is allowed to claim such portion of the annual credit amount, subject to the restrictions in s. 220.1855, F.S.

The Florida Housing Finance Corporation must establish procedures as it deems necessary for monitoring an eligible workforce housing development's compliance with s. 220.1855, F.S., and for notifying the director of the Department of Revenue of any noncompliance of which it becomes aware.

The bill provides a credit recapture provision. As of the close of any year in the compliance period, if the amount of the qualified basis of any building with respect to the taxpayer is less than the amount of the qualified basis as of the close of the preceding year, the credit allowable with respect to such year must be

proportionately reduced by the percentage reduction in the qualified basis. If credit in excess of this reduced amount has been claimed by any taxpayer with respect to such year, the taxpayer's tax must be increased by the amount of any credit wrongfully claimed. Such adjustment must be made in the year in which the reduction in qualified basis is identified.

Section 2. State Workforce Housing Tax Credit Program. (pp. 8-10):

PRESENT SITUATION

There is presently no State Workforce Housing Tax Credit Program.

EFFECT OF THE BILL

The bill creates s. 420.5096, F.S., State Workforce Housing Tax Credit Program, the purpose of which is stimulating creative private sector initiatives to increase the supply of workforce housing in Florida. The Florida Housing Finance Corporation will administer the program. A copy of the eligibility statement, once issued to the owner of the eligible workforce housing development, shall be transmitted to the executive director of the Department.

The Florida Housing Finance Corporation will determine which workforce housing developments are eligible for the corporate tax credit available under s. 220.1855, F.S., or the insurance premium tax credit available under s. 624.51056, F.S., or both.

The Florida Housing Finance Corporation's award of an agency award to an eligible workforce housing development must be in writing and must include a statement of the maximum credit allowable to the applicant.

The Florida Housing Finance Corporation will issue to the owner of the eligible workforce housing development an eligibility statement, as defined in s. 220.1855(1), F.S. A copy of the eligibility statement must be transmitted to the executive director of the Department of Revenue, who will apply the annual credit amount to the tax liability of the owner of the eligible workforce housing development or its constituent taxpayers as specified in s. 220.1855(2)(g), F.S.

Section 3. State workforce housing tax credit. (pp. 10-11):

PRESENT SITUATION

There is presently no credit available against insurance premium tax and retaliatory tax for increasing the supply of workforce housing in the state.

EFFECT OF THE BILL

The bill creates s. 624.51056, F.S., which provides that a tax credit authorized by s. 220.1855, F.S., must also be allowed against any tax due under s. 624.509(1), F.S. (insurance premium tax), or s. 624.5091, F.S. (retaliatory tax), after deducting from the tax the deductions for

- assessments made pursuant to s. 440.51, F.S. (workers' compensation administrative assessments);
- the credits for taxes paid under s. 175.101 and 185.08, F.S. (firefighters' and police officers' pension trust funds);
- the credits for income taxes paid under Chapter 220, F.S. (corporate income tax);
- the credit allowed under s. 624.509(5), F.S. (salary credit), as such credit is limited by s. 624.509(6), F.S.; and
- the credit allowed under s. 624.51055, F.S. (credit for contributions to nonprofit scholarship-funding organizations).

All requirements of the tax credit under s. 220.1855, F.S., apply to insurers claiming a tax credit under new s. 624.51056, F.S.

An insurer claiming a credit against premium tax liability under s. 624.51056, F.S., is not required to pay any additional retaliatory tax levied pursuant to s. 624.5091, F.S., as a result of claiming such credit, and that section does not limit such credit.

Section 4. (p. 11): Provides for an effective date of July 1, 2019.

- 2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES?** ☒ YES ☐ NO

If yes, explain:	The Department is not granted specific rule authority with respect to this bill, but tax forms will need to be amended.
Rule(s) impacted (provide references to F.A.C., etc.):	Corporate income tax forms and instructions adopted in Rule 12C-1.051, F.A.C., and insurance premium tax forms and instructions adopted in Rule 12B-8.003, F.A.C., will need to be updated.

- 3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?** N/A

- 4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS?** ☐ YES ☒ NO

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

- 5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?** ☐ YES ☒ NO

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

- 6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?** The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.

7. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government.
Expenditures: <i>(only expenditure impacts on the Department are identified)</i>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> YES, BUT INSIGNIFICANT <input type="checkbox"/> UNABLE TO DETERMINE See Additional Comments section below if it is determined there is a significant operational impact to the Department.
Does the legislation contain an appropriation to the Department?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

8. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? The Department of Revenue does not conduct this analysis.

9. DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

TECHNOLOGY IMPACT

If any, see attached Fiscal Impact Analysis.

FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

10. STATUTE(S) AFFECTED: Sections 220.1855, 420.5096, and 624.51056, F.S.

11. HAS BILL LANGUAGE BEEN ANALYZED EARLIER THIS SESSION? ☐ YES ☒ NO

If no, go to #12. If yes:

A. Identify bill number or source.

B. Were issues/problems identified? ☐ YES ☐ NO

a. If yes, have they been resolved? ☐ YES ☐ NO If no, briefly explain.

C. Are new issues/problems created? ☐ YES ☐ NO If yes, briefly identify.

12. DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT? ☒ YES ☐ NO

If yes, describe administrative problems, technical errors, or other difficulties:

- Section 1., while creating a new statute under the corporate income tax chapter, sets forth a tax credit award program to be administered by the Florida Housing Finance corporation, but does not require the corporation to provide a report of taxpayers who will be using the tax credits and how much each year.

Amend line 171 to read:

constituent taxpayer, as well as the name, address, and federal taxpayer identification number of each partner, shareholder, member, or other constituent taxpayer. The Florida Housing Finance Corporation shall transmit a copy of the allocation of annual credit certification to the executive director of the department. Each partner, shareholder, member, or

While Section 2. does require that eligibility statements be transmitted to the Department, the bill does not indicate who will transmit the statements and there are not any provisions requiring the corporation to provide any other type of report that could be used to verify credits claimed.

Amend lines 273-274 to read:

an eligibility statement, as defined in s. 220.1855(1). The corporation shall transmit a A copy of the eligibility statement ~~must be transmitted to the~~

2. Pursuant to the confidentiality and information provisions of s. 213.053, F.S., the Department is not permitted to share taxpayer information with the Florida Housing Finance Corporation, which may be problematic with respect to the administration of the state workforce housing tax credit program.

In a new section of the bill, amend s. 213.053(8), F.S., to include:

Information relating to tax credits taken under ss. 220.1855 and 624.51056 to the Florida Housing Finance Corporation.

3. It is unclear if the year in which agency awards are made is intended to coincide with a taxpayer's taxable year. Is an agency award made in calendar year 2020 meant to be taken on a taxpayer's taxable year 2020 return (i.e., tax years beginning on or after January 1, 2020)? Can a fiscal year filer who is awarded a credit in 2020 (but the award is made during its taxable year 2019) take the credit on its taxable year 2019 return?

If the credit is meant to be taken starting with returns filed for taxable year 2020, amend lines 38-39 of to read:

Section 1. Effective July 1, 2019, and applicable to taxable years beginning on or after January 1, 2020, section ~~Section~~ 220.1855, Florida Statutes, is created to read:

4. It is unclear if a taxpayer must attach a copy of the eligibility statement issued by the Florida Housing Finance Corporation to the tax return on which it intends to take a credit.

If that is the sponsor's intent, amend line 125 to read:

must be stated on the eligibility statement. A copy of the eligibility statement must be attached to each tax return for which the taxpayer seeks to apply a tax credit.

And amend line 174 to read:

section. A copy of the allocation of annual credit certification must be attached to each tax return for which the partner, shareholder, member, or other constituent taxpayer seeks to apply its allocated portion of the owner's annual credit amount.

5. The bill states that a taxpayer owning an interest in one or more eligible workforce housing developments may claim a state workforce housing tax credit against corporate income tax if the owner of the eligible workforce housing development receives an agency award. However, the phrase "owning an interest" is not defined.

The Department is unable to provide replacement language at this time, as the intent of the bill is not clear.

6. If an agency award is made to a pass-through entity, it is unclear how the Department will identify any partners, shareholders, members, or constituent taxpayers to which an agency award may have been allocated by the pass-through entity. The bill does not require numeric identifiers (e.g., business partner number, federal employer identification number (FEIN), etc.) be provided by the owner of the eligible workforce housing development.

See item 1 above regarding the proposed amendment to Line 171.

7. The bill does not amend s. 220.02(8), F.S., to state in which order the state workforce housing tax credit is to be claimed against corporate income tax relative to other credits that may be claimed against corporate income tax.

In a new section, amend s. 220.02(8), F.S., to read:

It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 631.828, those enumerated in s. 220.191, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 220.195, those enumerated in s. 220.184, those enumerated in s. 220.186, those enumerated in s. 220.1845, those enumerated in s. 220.19, those enumerated in s. 220.185, those enumerated in s. 220.1875, those enumerated in s. 220.192, those enumerated in s. 220.193, those enumerated in s. 288.9916, those enumerated in s. 220.1899, those enumerated in s. 220.194, ~~and~~ those enumerated in s. 220.196, and those enumerated in s. 220.1855.

8. The bill states that the state workforce housing tax credit is to be claimed against insurance premium tax or retaliatory tax after deducting from the tax specified assessments and credits, but does not amend s. 624.509(7), F.S., which mandates the order in which credits and deductions are to be taken against insurance premium tax.

In a new section, amend s. 624.509(7), F.S., to read:

Credits and deductions against the tax imposed by this section shall be taken in the following order: deductions for assessments made pursuant to s. 440.51; credits for taxes paid under ss. 175.101 and 185.08; credits for income taxes paid under chapter 220 and the credit allowed under subsection (5), as these credits are limited by subsection (6); the credit allowed under s. 624.51055; the credit allowed under s. 624.51056; all other available credits and deductions.

9. Insurance companies may not receive a benefit, or full benefit, of claiming a corporate income tax credit against corporate income tax because the credit allowed against their insurance premium tax for paying corporate income tax may be reduced. Many tax credits require eligible insurance companies to claim such credits against their insurance premium tax liability only.

Add new paragraph (h), inserted after Line 181, to read:

A taxpayer who is eligible to receive the credit provided for in s. 624.51056 is not eligible to receive the credit provided by this section.

And amend lines 217-218 to read:

insurance premium tax credit available under s. 624.51056, ~~or~~
~~both~~. The corporation may exercise all powers necessary to

10. It is unclear if the deductions from the tax on lines 284-289 of the bill apply to just the insurance premium tax, or to both the insurance premium tax and the retaliatory tax.

The Department is unable to provide replacement language at this time, as the intent of the bill is not clear.

It is unclear what is meant by lines 290-291 of the bill: "All requirements of the tax credit under s. 220.1855 apply to insurers claiming a tax credit under this section."

The Department is unable to provide replacement language at this time, as the intent of the bill is not clear.

11. There is no definitive assignment of duties or responsibilities with regard to the credit recapture provision provided by the bill.

It is unclear:

- If the Florida Housing Finance Corporation will provide technical assistance when requested by the Department on any technical audits or examinations performed pursuant to any state workforce housing tax credit.
- If and when the Florida Housing Finance Corporation will notify the taxpayer and/or the Department of any required reduction of a state workforce housing tax credit due to the noncompliance of an eligible workforce housing development.
- If the Florida Housing Finance Corporation is responsible for recomputing the reduced amount of tax credit.
- If a taxpayer is required to file an amended corporate income tax return to repay the difference in tax due to a reduced tax credit. If so, within how many days of receiving notification from the Florida Housing Finance Corporation? If an amended return is not required, how must the adjustment to tax be made?
- If interest is required to be paid on the recaptured tax.
- If there is a statute of limitations associated with the Department's notification of a reduced credit (e.g., the Department may issue a notice of deficiency at any time within 3 years after the taxpayer receives notification from the Florida Housing Finance Corporation that its tax credit has been modified).

Amend lines 188-198 to read:

(4) CREDIT RECAPTURE.—

(a) As of the close of any year in the compliance period, if the amount of the qualified basis of any building with respect to the taxpayer is less than the amount of the qualified basis as of the close of the preceding year, the Florida Housing Finance Corporation shall proportionally reduce the credit allowable with respect to such year must be proportionately reduced by the percentage reduction in the qualified basis. The Florida Housing Finance Corporation shall notify the taxpayer in writing of any modification of the credit and transmit a copy of such notification to the executive director of the department. If credit in excess of this reduced amount has been claimed by any taxpayer with respect to such year, the taxpayer's tax must be increased by the amount of any credit wrongfully claimed. Such adjustment must be made in the year in which the reduction in qualified basis is identified.

(b) In addition to its existing audit and investigation authority, the department may perform any additional financial and technical audits and investigations, including examining the accounts, books, and records of the tax credit applicant, which are necessary to verify the accuracy of the return and to ensure compliance with this section. If requested by the department, the Florida Housing Finance Corporation must provide technical assistance for any technical audits or examinations performed under this subsection.

(c) It is grounds for forfeiture of previously claimed and received tax credits if the department determines, as a result of an audit or examination or from information received from the Florida

Housing Finance Corporation, that a taxpayer received tax credits pursuant to this section to which the taxpayer was not entitled.

(d) The Florida Housing Finance Corporation may revoke or modify any eligibility statement or agency award granting eligibility for tax credits under this section if it is discovered that the tax credit applicant submitted any false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive tax credits under this section. The Florida Housing Finance Corporation shall immediately notify the department of any revoked or modified orders affecting a previously issued eligibility statement. Additionally, the taxpayer must notify the department of any change in its tax credit claimed.

(e) The taxpayer shall file with the department an amended return or such other report as the department prescribes by rule and shall pay any required tax and interest within 60 days after the taxpayer receives notification from the Florida Housing Finance Corporation that previously approved tax credits have been revoked or modified. If the revocation or modification order is contested, the taxpayer shall file an amended return or other report as provided in this paragraph within 60 days after a final order is issued after proceedings.

(f) A notice of deficiency may be issued by the department at any time within 3 years after the taxpayer receives formal notification from the Florida Housing Finance Corporation that previously approved tax credits have been revoked or modified. If a taxpayer fails to notify the department of any changes to its tax credit claimed, a notice of deficiency may be issued at any time.

13. OTHER:

1. There appears to be a transposition of the statute citation in line 135, which should be amended to read:

s. 624.51056 ~~s. 624.50456~~, is \$50 million in 2020, \$50 million in 2021, and

2. For purposes of consistency, amend line 186 to read:

executive director of the department of any noncompliance of which it

3. The bill allows pass-through entities that are owners of an eligible workforce housing development to get an agency award and then allocate the credit amount to its partners, shareholders, or members. The bill's list of pass-through entities includes S corporations. In general, S corporations may have no more than 100 shareholders, all of whom are individuals. These individuals will have neither a corporate income tax nor an insurance premium tax liability. Certain other pass-through entities may encounter similar problems (i.e., have partners, shareholder, or members that are individuals). Pass-through entities should be made aware that allocations of credit should only be given to partners, shareholders, or members with a tax liability, as no transfer provision is authorized and any amount of the credit which is not used may not be refunded to the taxpayer.

Amend line 163 to read:

limited liability company, ~~S corporation~~, or similar pass-

And amend line 166 to read:

taxpayers with a corporate income tax or insurance premium tax liability in any manner agreed to by such partners,

4. Section 220.183, F.S. (community contribution tax credit), offers a tax credit for projects providing housing opportunities for special needs persons, low-income households, and very-low-income households against corporate income tax and insurance premium tax. It is unclear if it is possible for a taxpayer's housing project to qualify for both the community contribution tax credit and the state workforce housing credit. If it is possible, it is unclear if a taxpayer would be permitted to take both the community contribution tax credit and the state workforce housing tax credit for the same project.

The Department is unable to provide replacement language at this time, as the intent of the bill is not clear.

5. The state housing tax credit permitted in s. 220.185, F.S., has some similar provisions to the state workforce housing credit, but it is unclear if amounts were ever appropriated to the State Housing Tax Credit Program, as would be required to fund such credits.

The Department is unable to provide replacement language for this comment.



2017 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Housing Finance Corporation

<u>BILL INFORMATION</u>	
BILL NUMBER:	HB 91
BILL TITLE:	State Housing Tax Credit Program
BILL SPONSOR:	Representative Cortes, J.
EFFECTIVE DATE:	July 1, 2017

<u>COMMITTEES OF REFERENCE</u>
1) Transportation and Tourism Appropriations Subcommittee
2) Ways and Means
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<u>CURRENT COMMITTEE</u>
Transportation and Tourism Appropriations Subcommittee

<u>SIMILAR BILLS</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
No

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	January 27, 2017
LEAD AGENCY ANALYST:	Nancy Muller, Policy Director
ADDITIONAL ANALYST(S):	John Toman, Policy Manager
LEGAL ANALYST:	Chris McGuire, Assistant General Counsel
FISCAL ANALYST:	Angie Sellers, Comptroller

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

HB 91 provides for at least \$500,000 in annual fiscal year appropriations to the State Housing Tax Credit Program. Any appropriation would be subject to a fiscal year's General Appropriations Act.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Federal Low Income Housing Tax Credits in Florida

Through a federal population-based allocation to all states, the Low Income Housing Tax Credit (LIHTC) Program provides rental developers with competitive 9 percent tax credits that they sell to investors in exchange for equity to finance the acquisition, rehabilitation and new construction of affordable rental housing. Investors use the tax credits for a dollar-for-dollar reduction over ten years in their federal tax liability. The equity infused into the housing transaction lowers the need for additional debt. Florida also receives authority to issue non-competitive Housing Credits that are awarded to developments financed with tax exempt multifamily Mortgage Revenue Bonds. Florida Housing Finance Corporation administers the LIHTC Program in Florida. A state Qualified Allocation Plan outlining how the credits will be used must be adopted by Florida Housing's Board and signed by the Governor. The program is funded via an annual competitive federal allocation based on state population, estimated at \$49.2 million for 2017.

State Housing Tax Credit Program

Sections 420.5093, and 220.185, F.S., provide for the State Housing Tax Credit (SHTC) Program for purposes of increasing the supply of affordable housing in urban areas of the state. Unlike the federal program which is only for rental development, statute allows the SHTC to be used for single family development, commercial facilities associated with housing and, more generally, would allow use for mixed use projects. Additionally, the statute calls for the credit to be used in "urban infill" areas, rather than throughout the state as allowed by the federal LIHTC.

Similar to the LIHTC Program, the SHTC Program allows for credits of up to 9 percent for designated projects (the same as the competitive federal credit). The total tax credits allocated is defined as the total credits pledged over a 5-year period for all projects. Florida Housing Finance Corporation is authorized to establish procedures for the allocation and distribution of state credits. The Corporation must prepare an annual plan, which must be approved by the Governor, containing general guidelines for the SHTC Program.

The total amount of credits allocated for all projects may not exceed the amount appropriated for the SHTC Program in the General Appropriations Act. Established in 1999 (Ch. 99-378, L.O.F.), the SHTC Program received an initial General Revenue appropriation of \$2.5 million. No credits were issued that year and therefore no appropriated funds were utilized. The SHTC has received no additional appropriations since 1999.

2. EFFECT OF THE BILL:

Section 220.185, F.S., is amended to provide that at least \$500,000 will be appropriated to the State Housing Tax Credit Program for each fiscal year. Any appropriation would be subject to a fiscal year's General Appropriations Act.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☒ N ☒

If yes, explain:	Please see Legal – General Counsel's Office Review section.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
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Opponents and summary of position:	Unknown
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5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	Unknown. The bill provides that at least \$500,000 be appropriated in the form of corporate tax credits, but since this is subject to appropriations in the

	General Appropriations Act, the actual amount of tax credits that would be appropriated each year cannot be determined.
Does the legislation contain a State Government appropriation?	Subject to appropriations in the General Appropriations Act, at least \$500,000 could be appropriated to fund the SHTC Program for each fiscal year.
If yes, was this appropriated last year?	The last time funds were appropriated for the SHTC Program was 1999. None of these funds were ever accessed.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Other:	If this program is successfully implemented, developers will realize a small amount of additional equity to fund affordable housing in the state.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☒ N ☐

If yes, explain impact.	If this program is successfully implemented, investors will derive reductions in their state tax liability.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.

Click or tap here to enter text.

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☐

If yes, describe the anticipated impact including any fiscal impact.

Click or tap here to enter text.

ADDITIONAL COMMENTS

It is unknown what level of appetite there would be for investors to participate in this program to use these tax credits to offset their state tax liability. In order for a program like this to work well (i.e., generate developer and investor interest), it would be necessary to consistently appropriate funds for the program to allow for the private investment market to develop to buy the credits. While the statute calls for appropriations to implement SHTC program, the federal credit is embedded in the tax code and does not require annual congressional appropriations. This provides more assurance to the investor market that these federal credits will be available year to year, thus stabilizing the federal tax credit market.

The current proposal of \$500,000 for the SHTC would, in effect, work as follows: based on the federal tax credit, Florida Housing would allocate only \$100,000. The awardee(s) would then sell those credits to investors to use over each year for five years (\$100,000/year) to equal the \$500,000 appropriation. \$100,000 in funding is an extremely small amount of funding that does not go very far in developments that are typically in the millions of dollars. Even in single family home situations, first mortgages that Florida Housing issues are \$140,000+ per loan

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	<p>While this bill will not in itself require Florida Housing to adopt any implementing rules, policies, or procedures, it would have the effect of triggering the requirements in Section 420.5093, F.S., that Florida Housing establish procedures and criteria for allocating tax credits. If funds were consistently appropriated on an annual basis, it might become necessary for Florida Housing to adopt some of the procedures and criteria by rule. And since Section 420.5093, F.S., has not been amended since 2002, it might also be desirable to update that section to conform more closely with current corporation procedures and criteria for other similar allocations.</p>
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How the Low-Income Housing Tax Credit (LIHTC) Process Works in Florida and Comparison to the Proposed State Housing Tax Credit

Florida is allocated competitive (9%) Low Income Housing Tax Credits (LIHTC) based on population.¹ Affordable Housing developers use LIHTC to obtain equity to build affordable housing. Developers convert the LIHTC award to equity by selling to investors who utilize the credits to offset tax liability. Equity generated from the LIHTC award reduces the amount of debt in a project, allowing developers to rent units at below market rates.

Most recently, Florida's annual 9% LIHTC allocation has been around \$57 million.² Florida Housing Finance Corporation (Florida Housing or FHFC) allocates the LIHTC through competitive solicitations each year. There are always more applications submitted than credits available and the process is highly competitive. In order for Florida Housing and the federal government to preserve the integrity of the program and mitigate possible fraud, waste, or abuse of the resource, there are explicit requirements successful applicants must meet to receive the LIHTC.

After Florida Housing's Board of Directors makes preliminary awards, applicants may choose to litigate Florida Housing's decisions, and this process can take 3-4 months. Once an applicant receiving a final award of 9% housing credits accepts an invitation into credit underwriting, the Internal Revenue Code (IRC) (§42(m)(1)(A)) requires two actions regarding the proposed housing credit development. First, Florida Housing must notify the head of the proposed development's local jurisdiction of such development and provide a reasonable opportunity for that person to comment. Second, Florida Housing must obtain a Preliminary Recommendation Letter from the credit underwriter and a comprehensive market study of the housing needs of low-income individuals in the area to be served, which takes 6-12 weeks to complete. Based on the market study and a preliminary review of the proposed development, the credit underwriter must submit a Preliminary Recommendation Letter to Florida Housing.

Upon completion of the market study requirement and receipt of the Preliminary Recommendation Letter, a Carryover Allocation³ can be executed between Florida Housing and the applicant. This means the initial invitations to credit underwriting must be issued by the fall in order to execute a Carryover Allocation. With litigation of Florida Housing's scoring/award decisions also taking up time, it is critical that preliminary RFA awards be made by the Board within the first three months of each calendar year.

At this point, the IRC (§42(h)(1)(E)) requires two additional actions. First, the applicant is required to incur more than ten percent of the proposed development's reasonably expected final basis within one year of the date the Carryover Agreement was fully executed. Second, the applicant is required to have

¹ Allocating agencies are also given the authority to issue 4% LIHTC, but only in conjunction with tax exempt mortgage revenue bonds. As these credits may be awarded as needed for any eligible bond application, there is no competition for these awards, and therefore an understanding of their timeline is not needed since they operate differently than the proposed state credit. A "4%" allocation provides half or less in equity to what a 9% LIHTC provides.

² This is due to a short-term boost in the housing credit allocation provided by Congress, which will end after 2021.

³ FHFC is required to issue a Carryover Allocation to each property receiving an award of federal credits (in essence, a reservation), or the reservation will become void. The Allocation spells out the requirements that the developer must meet and the timeframes for meeting them, "guarantees" the credit to the project for two years, provided that all requirements of the Allocation are timely met.

all the buildings in the proposed development placed in service (i.e., a certificate of occupancy has been issued by the governing local jurisdiction) no later than the end of the second calendar year following the calendar year in which the Carryover Agreement was fully executed. For instance, if a Carryover Agreement was fully executed at any time during 2019, all of the buildings in a development must be placed in service by 12/31/2021.

LIHTC for a building cannot be claimed by the taxpayer for tax purposes until the month after certificate of occupancy is issued and all housing credit restricted units in a particular building have been initially occupied by housing-credit qualified households (per IRC§42(i)(3)(A)). Additionally, the developer must complete a final cost certification deemed acceptable by Florida Housing prior to the issuance of final documentation of the delivery of the tax credits to the applicant can occur(§42(m)(2))⁴. Upon satisfaction of these requirements, , Florida Housing can issue IRS Form 8609 for the building(s) which represent the delivery of the actual housing credits to the applicant.

If at any time during the Compliance Period (15 years after being placed in service) noncompliance with IRC§42 is discovered, Florida Housing would issue an IRS Form 8823 to the taxpayer and copy the IRS. Depending on the circumstances of the noncompliance, the IRS may recapture a pro-rata share of the housing credit allocation, inclusive of penalties.

Federal requirements for compliance monitoring continue for an additional 15-year “extended use” period, for a total of 30 years. States may add additional affordability period restrictions – Florida’s affordability period is a total of 50 years, including the federal 30-year period.

Lifespan of a 9% LIHTC Award

It is unclear whether the intent of the bill is to provide the State Housing Tax Credit program independently or in conjunction with the existing federal LIHTC program. Every other state credit program appears to require state credits to be used in conjunction with federal LIHTC. If the intent is for the two to be combined in Florida, Florida Housing will be required to slow down the current process to award 2020 federal tax credits in order to develop a state plan and carry out rulemaking for the State Housing Tax Credit program. As a result, FHFC-issued Carryover Allocation Agreements would likely not be in place by December 31 of 2020, as required, resulting in Florida losing all federal credits (and thus all developments funded) for the year. In addition, Florida would not be eligible to receive additional tax credit allocation through the National Pool at the end of the year.⁵ This allocation typically allows FHFC to fund an additional 1-2 developments per year.

If it is the intent of the bill to provide state tax credits in conjunction with 9% federal tax credits, we would recommend that implementation of the program be delayed until 2021. If it is the intent of the bill that state tax credits be provided independently of the 9% federal tax credits, or provided in conjunction with 4% non-competitive tax credits, a delay in implementation would not be required.

A timeline of this detail is provided below.

⁴ The IRC mandates a different applicable percentage (i.e., 9% or 4%) based on the type of cost incurred (§42(b)(1)(B)).

⁵ Each year if an allocating agency gets its credits properly awarded by the end of the year, it is eligible for unused credits from those allocating agencies that were unable to use them by the deadline.

Time	Fed Requirement and/or FHFC Action	Comments
Spring/Early Summer of the year before the allocating year (e.g., 2019 to allocate 2020 credits)	Update federally required Qualified Allocation Plan, carry out rulemaking, prepare and Board adopt funding timeline/approach	If state credits are to be used with federal, then the current timeline for federal allocation would be pushed back due to need to discuss how federal and state credits would work together. This is an issue all the way through this timeline.
Late Summer/Fall	RFAs developed, workshopped and issued	Unclear whether State Tax Credit intended to be competitive or non-competitive. "Application" is all that is specified in bill.
January-March	RFA awards announced	
April-June	Post-litigation, final awards by Board	
After final award	FHFC issues invitation to credit underwriting	Bill requires FHFC to evaluate the economic feasibility of each awarded development. Credit underwriting is the way this is done.
Within 3 months of invitation to credit underwriting;	Federal requirement: FHFC obtains comprehensive market study of housing needs in the area where property will be located; credit underwriter reviews study and development to provide Preliminary Recommendation Letter, required before Carryover (below)	Also addresses economic feasibility; market studies are currently considered to be critical to assessing whether there is enough demand for the units in area where being built.
By December 31 of year credits are awarded	Federal requirement: FHFC executes "Carryover Allocation" specifying an allocation of credits Federal requirement: FHFC notifies head of local government where proposed development located for comment	Not specified in bill; thus, the federal IRC might guide this. It is unclear whether the intent of the state bill is to allow FHFC to add these additional types of steps, including some below.
Up to 12 months from invitation to credit underwriting	Development completes credit underwriting towards final approvals	Per FHFC Rule. Assume FHFC would also specify similar in rulemaking for state credit.

Within ~1 year of Carryover Allocation Agreement	Development must incur costs that are more than 10% of proposed development's reasonably expected final basis (within 9 months, construction must commence)	Not stated in bill; thus federal IRC might guide.
By December 31 of 2 nd year after credits are awarded	All buildings in a development must be placed in service with certificate of occupancy	If there are delays in the delivery of the buildings, IRC has a process allowing the return of the awarded credits and issuance of new credits (rarely invoked). The ability to similarly extend state credits is strictly prohibited.
Within 90 days of entire property being placed in service, and before taxpayer/investor can claim tax credits	FHFC requires final cost certification to be submitted to FHFC and deemed acceptable by FHFC	SB 250 requires cost certification, but does not include a deadline.
One month after occupancy of all housing credit qualified units in a building (may occur multiple times depending on how many buildings	Federal IRC allows investors to claim tax credits on each building in a development for tax purposes as completed after FHFC issues IRS Form 8609 (but subject to completing final cost certification per above)	SB 250 mandates all buildings must be placed in service prior to claiming state credits. The bill requires FHFC to issue an eligibility statement to the owner and DOR.
15 years	IRS compliance period for affordability	SB 250 requires 10 years only
30 years	Full federal compliance period for affordability	SB 250 does not appear to require any additional affordability period.
50 years	Federal IRC prioritizes the longest affordability period possible. Florida's compliance period for affordability.	



Overview of Florida Housing Finance Corporation

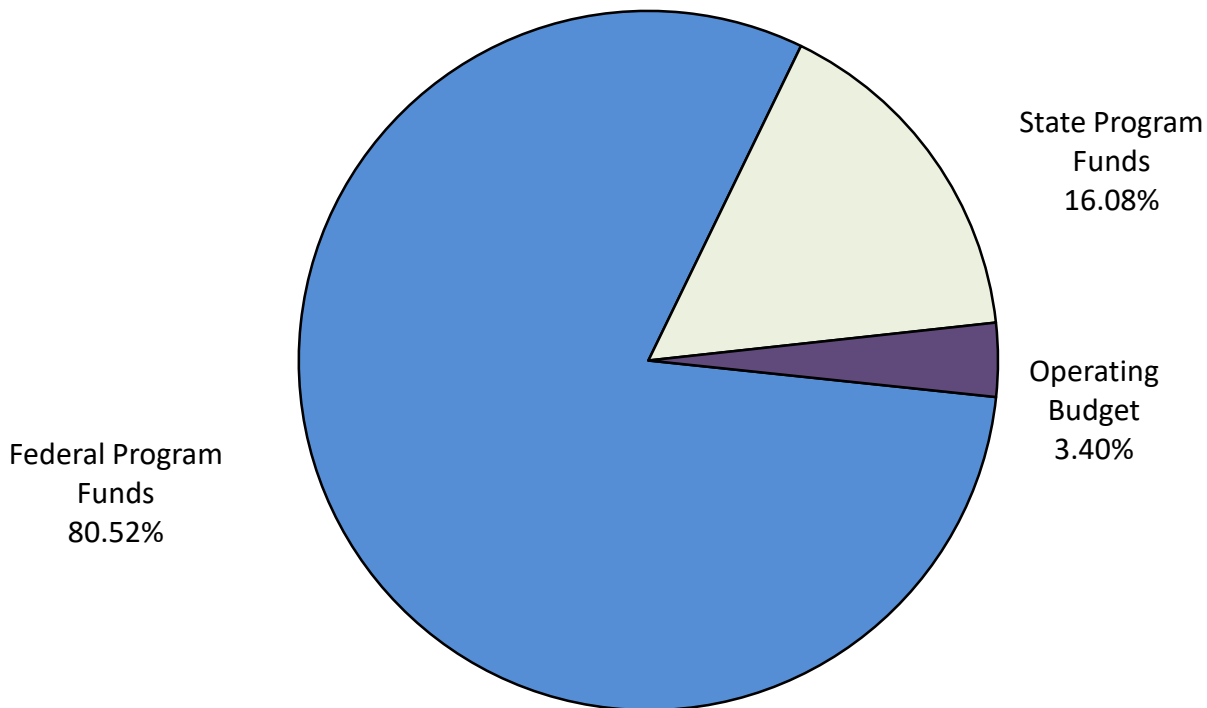


Quick Facts

- **Florida Housing Finance Corporation** (Florida Housing) is a public corporation of the State of Florida. As a financial institution, Florida Housing administers federal and state resources to provide low interest financing to homebuyers and to finance the development and preservation of affordable homeowner and rental housing.
- Florida Housing is not a department of the executive branch of state government but is an instrumentality of the State.
- Amount of state General Revenue appropriated to Florida Housing annually: None.
- Number of state employees working at Florida Housing: None.

Program Funding vs. Administrative Expenses

2018 / 2019



Introduction

Florida Housing Finance Corporation is a public corporation of the State of Florida and is considered to be a financial institution. Florida Housing administers federal and state resources to finance the development and preservation of affordable homeowner and rental housing and assist homebuyers with financing and down payment assistance. When the 1980 Legislature created Florida Housing Finance Corporation's precursor, Florida Housing Finance Agency, the Agency was an arm of the Florida Department of Community Affairs

(DCA). In the 2011 legislative session, statutory changes moved Florida Housing's functional relationship from DCA to the Florida Department of Economic Opportunity (DEO). Florida Housing's purpose as outlined in Section 420.502, F.S., is to:

- Provide access to federal housing resources;
- Stabilize the flow of funds for affordable housing;
- Promote affordable housing; and
- Boost Florida's construction industry.

As a result of revisions made by the 1997 Legislature, on January 1, 1998, Florida Housing became a public-private entity to reduce bureaucracy, streamline many administrative processes and operate more effectively within the real estate and financial markets. Two changes were particularly important in this regard: accelerated disbursement of trust fund dollars to the private sector and local governments, and elimination of duplicative services in the issuance of bonds. Funds disbursed by Florida Housing in loan closings for developments and homeowner mortgages, which took up to six weeks before Florida Housing became a public corporation, were processed through both DCA (now the Department of Economic Opportunity) and the Comptroller (now the Chief Financial Officer). The lengthy process was costly to private sector partners, created construction delays and slowed down implementation of local housing programs. The 1997 legislative changes authorized Florida Housing to disburse funds directly, typically within five business days. The bond issuance process also was streamlined by authorizing Florida Housing to issue bonds directly. Prior to this change, the Division of Bond Finance issued these bonds, requiring both agencies to provide staff for this purpose. The statute still requires the State Board of Administration to approve a fiscal determination for each bond issue carried out by Florida Housing.

Florida Housing is also subject to the Government-in-the-Sunshine Law, the Public Records Act, the Administrative Procedure Act, audits by the Chief Financial Officer for the State of Florida and the State Auditor General, and various other state and federal entities. Florida Housing is not a department of the executive branch of state government within the scope and meaning of Section 6, Article IV of the State Constitution, but is an instrumentality of the State. Sections 420.0006 and 420.504, F.S., require Florida Housing and DEO to sign a performance contract outlining the conduct of business by Florida Housing.

Statutory Responsibilities

Section 420.507, F.S., assigns responsibilities to Florida Housing, which are summarized below:

- To carry out analyses of housing needs within the state and ways of meeting those needs;
- To participate in federal housing programs and federal community development, insurance and guarantee programs;
- To develop and administer the state rental and homeownership programs as outlined by statute;
- To designate and administer private activity tax exempt bond allocation received by Florida Housing pursuant to Part VI of Chapter 159 between the single family and multifamily programs;
- To set standards for and monitor compliance of residential housing financed by Florida Housing; and
- To conduct demonstration programs and projects which further the statutory purposes of Florida Housing.

Governance

Florida Housing is governed by a Board of Directors, with eight members appointed by the Governor and subject to Senate confirmation, and the executive director of the Department of Economic Opportunity as an ex officio, voting member, or their designee. The following interests must be represented on the Board, pursuant to Section 420.504 (3), F.S.:

- Residential home building industry;
- Commercial building industry;
- Banking or mortgage banking industry;
- Home building labor representative;
- Low income advocate with experience in housing development;
- Former local government elected official;
- Two Florida citizens who are none of the above; and
- The Executive Director of the Florida Department of Economic Opportunity or a designee (ex officio voting).

Each member of Florida Housing's board of directors must file full and public disclosure of financial interests at the times and places and in the same manner required of elected constitutional officers under s. 8, Art. II of the State Constitution and any law implementing s. 8, Art. II of the State Constitution.¹

The Board typically meets eight times per year. Day-to-day operations are managed by Florida Housing's executive director, who is appointed by the DEO Executive Director with the advice and consent of the Board, and a staff of about 125.

Financial Role

As a financial institution, Florida Housing works with a variety of entities to finance affordable housing: private lenders and investors, mortgage and bond insurers, the Federal Home Loan Banks, liquidity facility providers, government sponsored enterprises (GSEs), federal agencies, for profit and nonprofit developers and property managers, local governments, public housing authorities and local housing finance authorities. In developing and implementing program priorities, the Florida Housing Board and staff must balance financial and market forces with our mission of serving Floridians who need well maintained, affordable housing. With more than 200,000 rental units currently financed and on the ground or in the construction pipeline, Florida Housing has approximately \$4.8 billion in assets. These assets are primarily in the form of loans receivable and securities resulting from single and multifamily loan transactions and are restricted by various bond indentures or by statute.

What Is Affordable Housing?

Affordable housing is defined in terms of the income of the household living in the housing. Housing is generally said to be affordable when a family is spending no more than 30 percent of its income on housing. On the rental side, this includes utilities, while on the homeownership side, principal, interest, taxes and insurance are all part of the equation. A household is said to be severely cost burdened if it is paying more

¹ Section 420.504(7), F.S.

than 50 percent of its income for housing. Households at the lower end of the income spectrum are more likely to be cost burdened.

Resident eligibility for Florida Housing programs is typically governed by area median income (AMI) levels. AMI data is published by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area. While Florida's 2018 state median income is \$62,500, the AMI eligibility for a particular program is determined by the county or group of counties in which the property is located as well as family size. The following are standard household income level definitions and, for perspective, their relationship to the 2018 state median shown above (as a family's size increases or decreases, these income ranges also increase or decrease; the average household size in Florida is just above two persons):

- Extremely low income – earning up to 30 percent AMI (at or below \$18,750);
- Very low income – earning from 30.01 to 50 percent AMI (\$18,751 to \$31,250);
- Low income – earning from 50.01 to 80 percent of AMI (\$31,251 to \$50,000); and
- Moderate income – earning from 80.01 to 120 percent of AMI (\$50,001 to \$75,000).

Florida Housing Finance Corporation's Role in the Financial Market

Florida Housing uses federal and state resources to make loans and guarantees of loans to further our mission, including private activity tax exempt bonds. Each resource for financing brings with it certain financial risks. Every bond transaction is structured to provide an array of protections to assure that the mortgage and the bonds will be paid. Credit enhancement is the primary means of protection.

As an issuer of tax exempt bonds, Florida Housing understands the necessity of effecting efficient transactions in the bond market to achieve the best interest rate for the bonds sold. These transactions require Florida Housing to establish and maintain good working relationships with the following:

- The State Board of Administration;
- The Division of Bond Finance;
- The three major rating agencies;
- Credit enhancers;
- Investment bankers;
- Tax credit syndicators; and
- Bond investors.

Each one of these parties plays a pivotal role in financing affordable housing and bringing tax exempt bond transactions to completion.

Private activity tax exempt bonds are allocated to Florida Housing pursuant to the calculation in Part VI of Chapter 159 performed by the Division of Bond Finance on an annual basis. Florida Housing receives approximately 25 percent of the annual state private activity bond volume. In 2018, the allocation to Florida Housing was \$526.5million.

These are revenue bonds; they are a not general obligation debt of the State of Florida, nor is the State liable for the debt in any way. Florida Housing Statutes clarify the revenue bond issuance process:

- **Section 420.51, F.S., State and local government not liable on bonds or notes** – The bonds of the corporation shall not be a debt of the state or of any local government, and neither the state nor any local government shall be liable thereon. The corporation shall not have the power to pledge the credit, the revenues, nor the taxing power of the state or of any local government shall be, or shall be deemed to be, pledged to the payment of any bonds of the corporation; and
- **Section 420.509(2), F.S., Revenue Bonds** – The State Board of Administration is designated as the state fiscal agency to make the determinations required by s. 16, Art. VII of the State Constitution in connection with the issuance of such bonds that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the same pledged revenues exceed the pledged revenues available for such debt service requirements.

The cash flow documents created for each issue and submitted to the State Board of Administration must demonstrate that it is in compliance with the above statutory and Constitutional requirement. For multifamily issues (each issue is a standalone indenture), revenues of the individual issue must meet these criteria. For single family issues which reside in a master indenture, the individual issue and the master indenture must both meet these criteria.

Who is responsible for the debt service payments on the revenue bonds?

For **multifamily rental**, it is the indenture trust estate; the development (borrower) which is funded by the bonds. For **single family homeownership**, it is the indenture trust estate; for securitized loans in the indenture, the timely loan payment guarantees by Fannie Mae, Freddie Mac and Ginnie Mae (as of September 30, 2018 this is 90.22 percent of the 1995 single family bond indenture and 100 percent of the 2009 New Issue Bond Program single family indenture²); or for the whole loans in the 1995 master indenture, the borrower along with a primary mortgage insurer and a pool insurer.

How Mortgage Revenue Bonds Work at Florida Housing

Multifamily Rental – Florida Housing facilitates the issuance of bonds by serving in a conduit capacity to lend bond proceeds to multifamily developers to construct/rehabilitate rental housing serving low income households. Each bond indenture is for a single purpose entity, i.e., each development that is financed. Only the development funded by the bonds supports the debt service of that indenture.

Homeownership – Single family bonds are part of one of two master indentures with all issuance of bonds (supplements to the master indenture) incorporated into one indenture. The indenture is the legal mechanism created to establish the trust estate related to the issued bonds and governs the assets and liabilities accumulated in the indenture.

In 2002, Florida Housing changed its homeownership program from a whole loan program in which Florida Housing took all financial responsibility for payment of the debt service on the bonds to a mortgage backed securities (MBS) program in which there is a guarantee as to the timely payment of loan principal and interest by Fannie Mae, Freddie Mac, or Ginnie Mae. This change further insulated Florida Housing's financial risk related to debt service on the bonds. The 2009 indenture, created solely to cover single family bonds issued

² The New Issue Bond Program was a short term response to the national credit and liquidity crisis which created extremely high interest rates on tax exempt bonds making them difficult to use for affordable housing programs.

under the authority of the New Issue Bond Program, is 100 percent MBS, resulting in no financial risk to Florida Housing related to debt service on the bonds.

To achieve the most advantageous pricing for program loans, Florida Housing settles MBS in various ways. As an alternative to selling tax exempt mortgage revenue bonds into the market, Florida Housing sells a portion of its securitized loans as specified pools in the secondary market. Depending on market conditions having both options available provides the best outcome for generating ongoing program resources. When sold, these securitized loans are no longer a part of Florida Housing's single family bond indentures. In February of 2013, in response to the continuously changing financial markets, Florida Housing added the To Be Announced (TBA) forward delivery market for selling conventional loans. The market products for selling securitized single family loan pools continues to evolve and Florida Housing will utilize the market products that are deemed most beneficial for homeownership including but not limited to tax exempt bonds, the specified pool market, and the TBA market.

In addition, Florida Housing also allocates Mortgage Credit Certificates to homebuyers. These certificates, which are made available from single family mortgage revenue bond volume cap, are tax credits which can be applied against a home buyer's annual federal tax liability each year the homeowner uses the home as their primary residence, increasing the homebuyer's after-tax wages and thus increasing their ability to afford a home.

Both the securities, as indenture assets, and the bonds, as indenture liabilities, are included on Florida Housing's balance sheet. The trust estate of the indenture, which is comprised of the indenture assets and liabilities, financially stands on its own. Neither the State of Florida nor Florida Housing general operations are responsible for the debt of the indenture.

While Florida Housing provides financing for homebuyer mortgages, we have never participated in subprime lending. Florida Housing reviews the performance of its homebuyer mortgages on a regular basis. At the end of the fourth quarter of 2017, 0.91 percent of the active loans originated by Florida Housing were in foreclosure, compared to the 1.70 percent of all loans statewide in foreclosure at that time.

Summary of Key Affordable Housing Programs Administered by Florida Housing Finance Corporation

Florida Housing recognizes that not all Floridians are candidates for homeownership. Our affordable housing programs provide a range of housing types, both rental and homeowner, to ensure that residents have decent, affordable housing options that are appropriate for them.

Homebuyer Loan Programs

Objective: To originate 30-year, fixed-rate, high loan-to-value mortgage loans for eligible first-time homebuyers who meet credit worthiness tests, have incomes within federal program limits and receive homebuyer education. For homeownership, the proceeds from tax exempt mortgage revenue bonds issued by Florida Housing are used by participating private lenders to originate 30-year, fixed-rate mortgage loans through this program; we have never participated in subprime lending. Florida Housing generally pairs some type of second mortgage purchase assistance with these mortgages to assist homebuyers, either through state

or federal funding, if available. The average sales price in the third quarter of 2018 was \$159,604 and the average loan amount was \$147,089.

Source of Financing: Primarily federal private activity bond volume allocated to states and secondary securities markets such as TBA and specified pool

Homeownership Assistance Program/Florida Assist 2nd Mortgage

Objective: In conjunction with Homebuyer Loan Programs, to assist eligible homebuyers in purchasing their home, primarily by providing up to \$7,500 of down payment assistance in the form of a 0-percent interest, non-amortizing second mortgage loan that runs concurrently with the first mortgage, which means the homebuyer does not make any monthly payments. Instead, the loan is repaid when the homebuyer sells the home, transfers ownership, satisfies or refinances the first mortgage, or ceases to occupy the home.

Source of Financing: Appropriations from the State Housing Trust Fund

Mortgage Credit Certificates

Objective: To provide eligible homebuyers with an annual federal tax credit that can be applied against their federal tax liability each year as long as the home is the primary residence, thus increasing the homebuyer's after-tax income and thereby increasing their ability to afford a home.

Source of Financing: Federal private activity bond volume allocated to states

Multifamily Mortgage Revenue Bonds

Objective: To finance the development and preservation of rental apartments through proceeds from taxable and tax exempt bonds issued to provide below market rate loans to developers who set aside a certain percentage of their apartments for low income families.

Source of Financing: Federal private activity bond volume allocated to states

Low Income Housing Tax Credits

Objective: To provide equity to developers through private sector investment by providing a dollar-for-dollar reduction in federal tax liability in exchange for the acquisition/substantial rehabilitation and new construction of affordable rental housing for low income households. Affordable housing developers sell these tax credits to large, private investors and use the cash from the sale to infuse equity into the construction of the property, lessening the need for additional debt.

Source of Financing: Federal population-based allocation to states

HOME Investment Partnership Program

Objective: Provides low-interest or zero-interest loans to developers to finance the construction and rehabilitation of homes and rental apartments. Additionally, HOME funds may be used for Tenant Based Rental Assistance to provide rent subsidy and security deposit assistance for very low- to moderate income households.

Source of Financing: Federal funding

State Apartment Incentive Loan Program (SAIL)

Objective: To provide gap financing through non-amortizing, low-interest loans to developers to leverage mortgage revenue bonds or competitive Low Income Housing Tax Credit resources and obtain the full financing needed to construct affordable rental units for very low income families.

Source of Financing: The state affordable housing trust funds and unobligated Florida Affordable Housing Guarantee funds

Florida Affordable Housing Guarantee Program

Objective: Authorized by the Legislature in 1992, the Guarantee Program was created to provide credit enhancement (i.e., mortgage repayment guarantees) primarily on bond-financed affordable rental housing developments at the time when such products for bond transactions were mostly unavailable in the private market. During its active phase, the program guaranteed 120 transactions, representing approximately \$1.4 billion and over 28,000 rental units, the majority of which partnered with HUD's Risk-Sharing Program (Section 542c), with HUD assuming 50 percent of the default risk. The program's last transaction was in 2005 and, in March 2009, Florida Housing's Board of Directors officially confirmed the suspension of new guarantees.

Capitalization of the Guarantee Fund occurred through the statutorily authorized issuance of debt, and the Guarantee Fund corpus is currently invested in the Florida Treasury. Documentary stamp taxes distributed to the State Housing Trust Fund are the essential element for maintaining the Guarantee Fund's insurer financial strength (IFS) credit rating; currently A+/Stable by Standard & Poor's and Fitch Ratings. In the event the Guarantee Fund is rated less than in the top three claims paying ratings by any of the rating agencies, the state would be required to use collections distributed to the State Housing Trust Fund to replenish the Guarantee Fund at the amount necessary to maintain the minimum IFS claims paying rating.

As of December 31, 2017, the program guarantees covered 829 units in 3 multifamily transactions, representing approximately \$20 million risk in force. Capital not needed to support the outstanding Guarantees was made available for use in the 2017 competitive solicitations. Specifically, \$40 million was made available to workforce housing and the remaining \$73 million to SAIL.

State Housing Initiatives Partnership Program (SHIP)

Objective: To provide funds to all 67 county local governments and Florida's larger cities on a population-based formula to finance and preserve affordable housing for very low, low, and moderate income families based on locally adopted housing plans. A minimum of 20% of funds must be used to serve persons with special needs. At least 65 percent of funds must be used for homeownership, although on average 85 percent of the funds have gone for this purpose annually. Funding is routinely used for such strategies as rehabilitation, emergency repairs, down payment assistance and homeownership counseling.

Source of Funding: Local Government Housing Trust Fund

Hardest-Hit Fund

In 2010, U.S. Treasury provided funds to states with housing markets that were hardest hit with foreclosures, housing price declines, and unemployment. There are 18 states and the District of Columbia participating in the Hardest-Hit Fund (HHF) Program. Florida's total allocation has equaled more than \$1.1 billion. From program inception through June of 2018 more than \$1 billion in HHF funds was reserved to assist over 52,000

Floridians. A number of strategies have been funded through the HHF. Many of these strategies were discontinued in 2018 and the program is no longer accepting new applicants.

- **Unemployment Mortgage Assistance Program (UMAP)** - The UMAP provides up to \$24,000 for up to 12 months (whichever comes first) in monthly first mortgage payment assistance on behalf of qualified borrowers with an eligible hardship.
- **Mortgage Loan Reinstatement Program (MLRP)** - MLRP funds (when used in conjunction with UMAP) are available in an amount of up to \$18,000 to help satisfy all or some of the arrearages on the first mortgage prior to UMAP payments commencing. When used without UMAP, MLRP-only funds are available in an amount of up to \$25,000 as a one-time payment to assist in bringing a delinquent first mortgage current for a homeowner who has returned to work or recovered from an eligible hardship.
- **Principal Reduction (PR)** - The HHF-PR program is designed to assist eligible homeowners by providing up to \$50,000 applied to the principal balance of the first mortgage to reduce the loan-to-value to no less than 100 percent.
- **Modification Enabling Pilot (MEP) Program** - The MEP program is designed to provide assistance to eligible borrowers with the intent to permanently modify and reduce the borrower's loan amount to an affordable level.
- **Elderly Mortgage Assistance Program (ELMORE)** - The ELMORE program pays up to \$50,000 to assist seniors who are in default on their reverse mortgage because of their inability to pay their taxes, insurance and other property charges.
- **Downpayment Assistance (DPA) Program** - The DPA Program provides eligible borrowers with up to \$15,000 in the form of a 0-percent, forgivable second mortgage, which can be used for downpayment, closing costs, prepaid expenses, mortgage insurance premiums, or as a principal reduction to the first mortgage. There are 11 counties currently approved by US Treasury where this program may be used.

Source of Funding: Federal Troubled Asset Relief Program (TARP)

Foreclosure Counseling Program

Objective: To provide counseling services throughout the state to help homeowners avoid foreclosure; provide good financial management education to help families better manage their money; provide extended financial coaching; and assist families with credit problems to become financially stable. Foreclosure counseling services are provided through a network of U.S. Department of Housing and Urban Development-approved nonprofit housing counseling agencies throughout the state through fee-for-service contracts with Florida Housing. In 2016, funding was also made available to SHIP local governments to provide these services directly or through a community partner. These SHIP funds began to flow in 2017.

Source of Funding: National Mortgage Settlement funds appropriated by the 2013 Legislature

National Housing Trust Fund (NHTF)

Objective: Federal program to increase and preserve the supply of rental housing for ELI households and Very Low Income (VLI) households. Florida's funding preferences are for rental developments that set aside a very small portion of units to serve ELI populations with incomes at or near the Supplemental Security Income levels (about 22% of AMI), targeted to homeless persons, those at risk of homelessness, or persons with

special needs. NHTF funds may be used for development hard costs, demolition, acquisition of real property, related soft costs and operating cost reserves.

Source of Funding: Federal block grant to the states from HUD with exact amounts determined by a need based formula

Financing Initiatives Targeting Persons with a Disabling Condition

Objective: To provide financing for affordable rental housing developments targeting persons with developmental disabilities. Developments may include new construction or renovation of existing units. Funding is provided as grants which are competitively offered to nonprofit organizations.

Source of Funding: State Housing Trust Fund (Legislation in 2016 requires Florida Housing to annually reserve a minimum of 5% of its SHTF appropriation for such initiatives going forward)

Hurricane Housing Recovery Programs

Objective: Construction of new affordable rental housing in areas impacted by Hurricane Irma and in areas that experienced a population influx because of migration from Puerto Rico and the U. S. Virgin Islands due to Hurricane Maria. FHFC will serve as a sub-recipient to the Department of Economic Opportunity (DEO), administering competitive solicitations seeking applications from for-profit and not-for-profit developers. Development will be new construction and may include re-development of uninhabitable dwellings. and public housing authorities to build affordable housing in targeted areas of the state

Source of Financing: Federal funding

Affordable Housing Catalyst Program

Objective: Provide on-site and telephone/email technical assistance as well as training through workshops and webinars on state and federal affordable housing programs being implemented in Florida. The program is targeted to local governments and nonprofit organizations. Florida Housing contracts with an experienced provider to implement this program.

Source of Funding: State Housing Trust Fund

Web-Based Affordable Rental Locator for the Public (FloridaHousingSearch.org)

Objective: Provide a free, online affordable rental housing locator that helps citizens search for housing throughout Florida. *FloridaHousingSearch.org* allows users to search for and find available rental units by many different search criteria, including rent amount, city, county, and zip code. Map links also are offered to allow users to search for housing near schools, transportation and employment.

Source of Funding: Florida Housing

Funding Affordable Housing Leads to Economic Benefits for Florida

Construction and development are important job and economic generators for local communities and states. In carrying out its mission to provide a range of affordable housing opportunities for residents that help make Florida communities great places to live, work and do business, Florida Housing provides financing through a range of federal and state programs that provide important economic benefits for the state.

To assist us in estimating the economic impact of Florida Housing's programs, we have worked with Florida State University to develop an analysis. The most recent information available showing Florida Housing's

economic impact to the state is for program activity in 2016. In 2016, Florida Housing leveraged funding to create a total of \$5.48 billion in economic activity. The total annual economic impact as a result of the development activities resulting from Florida Housing's programs, as well as operations, is estimated to be:

- \$5.48 billion in economic output,
- \$1.85 billion in income,
- \$3.05 billion in value added, and
- 38,803 full and part-time jobs.

In addition, researchers at Florida State University analyzed the on-going economic impact created each year for the first 15 years of each rental property based on their projected operations. The additional average annual economic impact over this period of operations is projected to be:

- \$519 million in economic output (equal to \$7.79 billion over 15 years),
- \$355 million in personal income (equal to \$5.33 billion over 15 years),
- 2,781 full and part-time jobs (equal to 41,715 over 15 years).

Florida Housing's objective is to carefully target any new rental construction to those areas of the state where there is a defined need for such housing. The data show us there is currently a need for new affordable rental units in many markets in Florida, particularly because of rent increases as urban markets strengthen. In areas where new construction is not currently needed, economic benefit results when we finance rehabilitation of older, existing affordable apartments (generally 20+ years old) to extend affordability and ensure that they remain in good condition.

Florida Housing Finance Corporation's Role in the State's Housing Delivery System

In the first years of its operation, Florida Housing accessed only federal resources to finance housing, but these funds proved difficult to use on their own. To leverage and augment these programs, the Florida Legislature began appropriating some funding for state programs in the late 1980s. However, it was the enactment of the William E. Sadowski Affordable Housing Act in 1992 that created a dedicated source of revenue for affordable housing from a portion of documentary stamp taxes on the transfer of real estate. This legislation provided both the funding mechanism for state and local programs, as well as a flexible, but accountable framework for local programs to operate. The dedicated revenue comes from:

- A ten-cent increase to the documentary stamp tax paid on the transfer of real estate, which began in August 1992; and
- A re-allocation of ten cents of existing documentary stamp tax revenues from general revenue to the affordable housing trust funds, which began in July 1995.

Charts showing the history of trust fund appropriations and allocations are provided on the next pages.

The 2005 Legislature adopted a cap restricting the amount of revenue that may flow into the housing trust funds to \$243 million per year, with a mechanism for a small increase over time. The cap went into effect July 1, 2007. The 2011 Legislature removed the cap, but created a new annual requirement starting July 1, 2012, which provides that the first \$75 million in documentary stamp tax collections credited to the housing trust

funds is automatically transferred to the State Economic Enhancement and Development (SEED) Trust Fund within DEO. The statutory change maintains the priority of payments for the Guarantee Fund as needed. The SEED fund gives the Governor a certain level of flexibility to create economic development opportunities. Florida Housing has the ability to compete for funding from the SEED trust fund. At this time, all of Florida Housing's state funds are appropriated through the housing trust funds created by the Sadowski Act or through one-time initiatives such as the National Mortgage Settlement; no appropriations are made to us from general revenue.

Florida Housing Documentary Stamp Tax Appropriations															
PROGRAM NAME	1992 / 1993	1993 / 1994	1994 / 1995	1995 / 1996	1996 / 1997	1997 / 1998	1998 / 1999	1999 / 2000	2000 / 2001	2001 / 2002	2002 / 2003	2003 / 2004	2004 / 2005	2005 / 2006	2006 / 2007
State Housing Trust Fund															
State Apartment Incentive Loan (SAIL)	\$ 11,500,000	\$ 14,800,000	\$ 15,200,000	\$ 23,323,550	\$ 26,600,000	\$ 24,230,629	\$ 30,783,734	\$ 30,085,000	\$ 36,470,000	\$ 48,308,010	\$ 66,048,012	\$ 43,978,169	\$ 46,658,090	\$ 48,411,461	\$ 55,102,200
Homeownership Assistance (HAP)	2,000,000	3,000,000	3,000,000	3,588,400	4,000,000	3,000,000	6,221,600	5,000,000	6,000,000	5,000,000	-	3,000,000	3,000,000	-	8,000,000
HOME Investment Partnerships (HOME)	2,000,000	2,950,000	2,000,000	746,200	2,000,000	1,500,000	2,488,800	2,000,000	2,000,000	2,000,000	-	-	-	-	-
Predelvelopment Loan (PLP)	750,000	500,000	500,000	1,794,200	2,000,000	1,000,000	1,244,000	1,000,000	1,500,000	2,000,000	4,000,000	2,000,000	-	-	-
Guarantee Fund Debt Service	1,100,000	750,000	2,292,400	2,132,839	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	3,865,000	5,400,000	5,400,000	5,400,000	6,400,000	6,400,000
Affordable Housing Study Commission/ Task Force	-	-	-	-	-	-	-	-	-	-	-	-	48,100	280,000	175,000
Catalyst Program	-	-	-	-	-	-	-	-	-	-	-	-	672,800	672,800	672,800
Housing Data Clearinghouse	-	-	-	-	-	-	-	-	-	221,990	126,455	129,498	127,633	142,362	150,000
Hurricane Funding	-	-	-	-	-	-	-	-	-	-	-	-	-	74,500,000	17,000,000
Farmworker & Special Needs (SHADP)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	15,000,000
EU & Special Needs	-	-	-	-	-	-	-	-	-	-	-	-	-	-	30,000,000
Technical Assistance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	100,000
Transfer to Community Contribution Tax Credit	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SHIP	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Project Independence	-	-	-	750,000	-	-	-	-	-	-	-	-	-	-	-
Soldiers to Scholars	-	-	-	300,000	-	-	-	-	-	-	-	-	-	-	-
Guarantee Program Feasibility Study	100,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SHIP Compliance Monitoring	-	-	-	-	-	200,000	-	-	-	-	-	-	-	-	-
Administration	-	-	1,174,008	1,283,279	1,538,279	1,933,001	1,351,276	1,501,276	1,501,276	1,426,712	1,354,901	677,450	-	-	-
TOTAL SHITF Appropriations	\$ 17,450,000	\$ 22,000,000	\$ 24,166,438	\$ 33,916,468	\$ 38,138,279	\$ 33,433,630	\$ 44,089,410	\$ 41,586,276	\$ 49,471,276	\$ 62,821,212	\$ 76,930,168	\$ 55,185,177	\$ 55,906,623	\$ 130,406,623	\$ 132,600,000
Sweep SHITF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12,000,000	\$ -	\$ 37,282,937	\$ 67,800,000	\$ -	\$ -
Local Government Housing Trust Fund															
SHIP	\$ 18,750,000	\$ 25,000,000	\$ 26,500,000	\$ 79,000,000	\$ 86,581,488	\$ 86,700,000	\$ 124,200,000	\$ 143,890,000	\$ 136,100,000	\$ 126,600,000	\$ 163,443,545	\$ 130,756,501	\$ 130,758,367	\$ 130,726,637	\$ 166,250,000
Homeless Programs - DCF & DEO	-	-	-	-	900,000	900,000	900,000	900,000	900,000	5,900,000	5,900,000	5,900,000	5,900,000	5,900,000	7,900,000
SHIP Compliance Monitoring	-	-	-	-	-	-	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000
Catalyst Program	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Housing Data Clearinghouse	-	-	-	-	-	-	-	-	-	-	126,455	129,499	127,633	159,363	150,000
Hurricane Funding	-	-	-	-	1,750,000	-	-	-	-	-	-	-	-	175,500,000	75,900,000
Community Workforce Housing Innovation Pilot (CWHP)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	50,000,000
Preservation Pilot Program	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
State Apartment Incentive Loan (SAIL)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Public Housing Mitigation Initiative	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Florida Supportive Housing Coalition	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL LGHTF Appropriations	\$ 18,750,000	\$ 25,000,000	\$ 26,500,000	\$ 79,000,000	\$ 89,231,488	\$ 87,600,000	\$ 125,300,000	\$ 144,990,000	\$ 137,200,000	\$ 132,700,000	\$ 169,670,000	\$ 136,986,000	\$ 136,986,000	\$ 312,486,000	\$ 300,400,000
Sweep LGHTF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 83,614,000	\$ 153,000,000	\$ -	\$ -
Total SHITF & LGHTF Appropriations	\$ 36,200,000	\$ 47,000,000	\$ 50,666,438	\$ 112,916,468	\$ 127,369,767	\$ 121,033,630	\$ 169,389,410	\$ 186,576,276	\$ 186,671,276	\$ 195,521,212	\$ 246,600,168	\$ 192,171,177	\$ 192,892,623	\$ 442,892,623	\$ 453,000,000
Total Sweep SHITF & LGHTF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12,000,000	\$ -	\$ 120,896,937	\$ 220,800,000	\$ -	\$ -

Florida Housing Documentary Stamp Tax Appropriations												
PROGRAM NAME	2007 / 2008	Reallocated	2008 / 2009 (Ind. SB 2A & shortfall)	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018
State Housing Trust Fund												
State Apartment Incentive Loan (SAIL)	\$ 115,000,000	\$ (101,500,900)	\$ (38,220,580)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 57,660,000	\$ 59,300,000	\$ 54,315,000	\$ 9,500,000
Homeownership Assistance (HAP)	18,087,200	88,500,900	-	-	37,500,000	-	-	-	-	-	-	8,085,000
HOME Investment Partnerships (HOME)	-	-	-	-	-	-	-	-	-	-	-	-
Predevelopment Loan (PLP)	-	-	-	-	-	-	-	-	-	-	-	-
Guarantee Fund Debt Service	6,400,000	-	17,609,940	-	-	-	-	-	-	-	-	-
Affordable Housing Study Commission / Task Force	175,000	-	175,000	-	-	-	-	-	-	-	-	100,000
Catalyst Program	672,800	-	826,200	-	-	-	-	-	-	400,000	-	-
Housing Data Clearinghouse	165,000	-	330,000	-	-	-	-	-	-	300,000	285,000	315,000
Hurricane Funding	-	-	(26,216,829)	-	-	-	-	-	-	-	-	-
Farmlworker & Special Needs (SHADP)	-	-	(9,846,695)	-	-	-	-	-	-	-	-	-
ELI & Special Needs	15,000,000	13,000,000	4,619,790	-	-	-	10,000,000	-	10,000,000	10,000,000	10,000,000	10,000,000
Technical Assistance	-	-	-	-	-	-	-	-	-	-	-	-
Transfer to Community Contribution Tax Credit	-	-	2,330,011	169,989	-	-	-	-	-	-	-	-
SHIP	-	-	33,244,086	-	-	-	-	-	-	-	-	-
Project Independence	-	-	-	-	-	-	-	-	-	-	-	-
Soldiers to Scholars	-	-	-	-	-	-	-	-	-	-	-	-
Guarantee Program Feasibility Study	-	-	-	-	-	-	-	-	-	-	-	-
SHIP Compliance Monitoring	-	-	-	-	-	-	-	-	-	-	-	-
Administration	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL SHITF Appropriations	\$ 155,500,000	\$ -	\$ (15,149,077)	\$ 169,989	\$ 37,500,000	\$ -	\$ 10,000,000	\$ -	\$ 67,660,000	\$ 70,000,000	\$ 64,600,000	\$ 28,000,000
Sweep SHITF	\$ -	\$ -	\$ 120,528,123	\$ 36,830,000	\$ 25,921,198	\$ 56,343,754	\$ 29,815,000	\$ 52,730,000	\$ 14,298,030	\$ 6,000,000	\$ 30,414,438	\$ 59,270,000
Local Government Housing Trust Fund												
SHIP	\$ 166,018,500	\$ -	\$ 158,040,024	\$ 30,110,000	\$ -	\$ -	\$ -	\$ -	\$ 96,000,000	\$ 101,000,000	\$ 129,800,000	\$ 94,225,000
Homeless Programs - DCF & DEO	5,900,000	-	5,436,805	-	-	-	-	-	4,000,000	4,000,000	5,200,000	5,200,000
SHIP Compliance Monitoring	416,500	-	383,802	-	-	-	-	-	-	-	-	-
Catalyst Program	-	-	-	-	-	-	-	-	-	-	500,000	500,000
Housing Data Clearinghouse	165,000	-	165,000	-	-	-	-	-	-	-	-	-
Hurricane Funding	-	-	-	-	-	-	-	-	-	-	-	-
Community Workforce Housing Innovation	-	-	-	-	-	-	-	-	-	-	-	-
Pilot (CWHIP)	62,400,000	-	(84,471,877)	-	-	-	-	-	-	-	-	-
Preservation Pilot Program	-	-	4,899,900	-	-	-	-	-	-	-	-	-
State Apartment Incentive Loan (SAIL)	-	-	-	-	-	-	-	-	-	-	-	9,000,000
Public Housing Mitigation Initiative	-	-	-	1,000,000	-	-	-	-	-	-	-	-
Florida Supportive Housing Coalition	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL LGHTF Appropriations	\$ 234,900,000	\$ -	\$ 84,453,654	\$ 31,110,000	\$ -	\$ -	\$ -	\$ -	\$ 100,000,000	\$ 105,000,000	\$ 135,500,000	\$ 109,000,000
Sweep LGHTF	\$ -	\$ -	\$ 319,471,877	\$ 55,070,000	\$ 148,388,802	\$ 133,187,355	\$ 66,845,000	\$ 151,400,000	\$ 91,853,337	\$ 75,000,000	\$ 86,500,000	\$ 95,130,000
Total SHITF & LGHTF Appropriations	\$ 390,400,000	\$ -	\$ 69,304,577	\$ 31,279,989	\$ 37,500,000	\$ -	\$ 10,000,000	\$ -	\$ 167,660,000	\$ 175,000,000	\$ 200,100,000	\$ 137,000,000
Total Sweep SHITF & LGHTF	\$ -	\$ -	\$ 440,000,000	\$ 91,900,000	\$ 174,310,000	\$ 189,531,109	\$ 96,660,000	\$ 204,130,000	\$ 106,151,367	\$ 81,000,000	\$ 116,914,438	\$ 154,400,000

How Florida Housing Finance Corporation Makes Resource Allocation Decisions

Florida Housing targets funding to specific populations and geographic areas of the state based on a number of factors. Federal and state programs target all or a portion of funds to households at or below income levels set by each program.

On the homeownership side, Florida Housing follows federal income targeting requirements, allowing us to provide financing to households with incomes as high as 115 percent of AMI in the government loan program or 140 percent of AMI for the conventional TBA program. On the rental side, targeted program incomes are generally lower to assist families that are unlikely to be able to afford homeownership. For example, the federal Low Income Housing Tax Credit Program requires that a portion of rental units in an apartment complex be set aside for families with incomes at or below 50-60 percent of area median income. Other federal rental programs are similar. As specified in s. 420.507, F.S., Florida Housing undertakes and uses studies and analyses of housing needs within the state, along with regular input from stakeholders and current market conditions to target program resources. Continuing input from stakeholders provides context and direction to Florida Housing's Board and staff. Interested parties are encouraged to provide comments and critiques of our programs by mail, phone, personal contact and public meetings that are held regularly each year as we modify programs to respond to changing policies and market conditions.

Florida Housing's Board and staff are constantly analyzing data, seeking input on financial and economic conditions and trends, and weighing this information with the range of changing housing needs to provide a set of balanced programs to finance affordable housing in an economically feasible manner. The Florida Housing Board and staff strive to allocate resources in a fair, open and rational way that is stable, predictable and user-friendly for the many participants in our programs and processes.

On the rental side, Florida Housing allocates program resources, such as federal Low Income Housing Tax Credits, through a competitive solicitation process whereby a series of approximately 15 "Requests for Applications" (RFAs) are issued each year to focus on various geographic areas of the state and offer funding for different types of housing and to serve different populations in need. For each RFA issued, a draft is circulated for public comment and one or more public workshops are held to seek input. Stakeholders may submit comments at these meetings or via phone, email or letter. This allocation process maintains a balanced, open, and transparent process that is flexible and is capable of reacting to changing markets and needs.

On the homeownership side, participating private lenders throughout the state originate mortgages through the Homebuyer Loan Programs to homebuyers on a first come, first served basis according to federal and state regulations and indenture criteria. Through Florida Housing's Home Ownership Pool Program, builders may apply to reserve down payment assistance on a first come, first served basis for their homebuyers when funding is available.

According to statute, SHIP funds are distributed to counties and eligible cities on a population-based formula. Local governments must follow statutory and administrative rule requirements in the disbursement of funds, but the program's premise is to allow them to set their own priorities within these guidelines according to local need as outlined in a locally adopted plan.

Accountability – How Florida Housing Finance Corporation Ensures Program Resources Are Appropriately Used

Multifamily Rental Process

The rental funding process begins with rule making and development of one or more Requests for Applications. Applications are submitted, scored independently by each member of a staff review committee, discussed and ranked by the full committee and the final recommendation is sent to Florida Housing's Board of Directors for approval. Applicants have the right to contest the findings through an administrative hearing process.

Once recommended orders are issued through the hearing process and brought back to the Board for final action, developments awarded financing are invited to enter the credit underwriting process. Developments are assigned to one of three independent credit underwriters under contract with Florida Housing. Independent professionals approved by the credit underwriter complete necessary evaluations, such as appraisals and market studies. Credit underwriting reports are reviewed and approved by Florida Housing staff and the Board of Directors before loan closing may proceed. At loan closing, Florida Housing receives construction completion guarantees and operating deficit guarantees as applicable. The developer signs personal guarantees for these.

Throughout the construction process, Florida Housing's servicers manage the draw process, construction inspections and other duties to ensure commitments. Once the development is completed, Florida Housing's compliance monitoring agents visit every development at least every year for the portion of our portfolio with state funds, and at least once every three years (as required by federal regulations) for those properties with Low Income Housing Tax Credits only that are in their first 15 years of their federal compliance period. For the remaining affordability period, these properties are monitored annually. The monitors ensure compliance with applicable federal and state statutes and rules, and with the loan closing documents. Florida Housing's staff and servicers also receive and review audited financial statements for each property annually as a part of our permanent loan servicing and asset management processes.

Single Family Homeownership Process

In Florida Housing's Single Family construction programs, the process for credit underwriting and construction loan servicing works in the same way that it does for our multifamily process. Applications for Florida Housing's down payment assistance loans by builders on behalf of homebuyers are also reviewed by our servicers who verify income and purchase price limits. Funds are not released until Florida Housing has sign-off from the servicer. In Florida Housing's down payment assistance programs, which are coupled with our Homebuyer Loan Programs, our Compliance servicer provides our "bond compliance" function. They review each loan made by participating lenders to make sure that it complies with federal and state income and purchase price limits.

State Housing Initiatives Partnership Program

SHIP eligible local jurisdictions submit their Local Housing Assistance Plans (LHAPs) to Florida Housing for review to ensure that they meet the broad statutory guidelines and requirements of the program rules. Florida Housing must approve an LHAP before a local government may receive SHIP funding. Florida Housing reviews each local jurisdiction's annual report which details how they have spent or encumbered their SHIP funds. Local jurisdictions are also required to send Florida Housing their annual audited financial statements and their Florida Single Audit Act reports for review.

Compliance monitoring is performed using a risk based approach with the amount of SHIP dollars received by the local government as one of the risk factors considered. Florida Housing's Inspector General may also audit local governments at any time. If problems are found, follow-up and annual reviews are scheduled, and Florida Housing may assign technical assistance providers to assist the local jurisdiction with formulating and implementing a corrective action plan. When funds have been found to have been misused, the local jurisdiction has reimbursed that amount of funds. If technical assistance and/or training fail to correct the problems and a pattern of violations is established, Florida Housing has statutory authority to suspend or possibly terminate disbursement of funds to the local jurisdiction.

Other Accountability Measures

Quality Assurance Reviews are performed by Florida Housing to determine compliance with external contract requirements for such areas as: credit underwriting, loan servicing, compliance monitoring and bond trustee services. Internally, Florida Housing's Inspector General oversees the audit and investigative functions for all aspects of the Corporation's programs and operations. Audits or other engagements can be initiated by internal audit risk assessments, the Board, Executive Director and internal or external complaints. Florida Housing contracts with an independent audit firm to carry out annual audits of the financial statements. The independent auditor opines on the financial statements, internal control over financial reporting and on compliance and other matters, and compliance and internal controls applicable to each major federal award program. Florida Housing is also subject to audits by the Auditor General, the State of Florida Chief Financial Officer, DEO, the Office of Program Policy Analysis and Government Accountability (OPPAGA), HUD, U.S. Treasury, the Internal Revenue Service and other state and federal entities at their discretion.

In addition, the following best business practices and financial transparency information is readily available on Florida Housing's website:

- Reports that include metrics and return on investment calculations;
- All relevant audits, tax returns, financial reports and summaries;
- All statutorily required reports;
- All vendor contracts;
- External reports detailing Corporation spending; and
- An organizational chart, and employee position and salary information.

Background Materials

The following linked materials provide more information about Florida Housing Finance Corporation and its programs. All materials are also available on the Florida Housing website or by accessing the State of Florida Auditor General website.

Transparency Webpage on Florida Housing's Public Website

<https://www.floridahousing.org/about-florida-housing/transparency>

2017 Audited Financial Statements

http://www.floridahousing.org/docs/default-source/data-docs-and-reports/finance/audited-financial-reports/2017-audited-financial-statements.pdf?sfvrsn=65b3317b_2

2017 Annual Report

https://issuu.com/fhfc/docs/fhfc-annual_report-2017_web_82303756ccc3b6

Florida Housing Finance Corporation's Strategic Plan [adopted September 19, 2014]

<https://www.floridahousing.org/docs/default-source/data-docs-and-reports/strategic-plan/2014-adopted-strategic-plan---september-19-2014.pdf?sfvrsn=2>

Chapter 420, Part V, Florida Statutes [pertaining to Florida Housing Finance Corporation]

http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0420/0420PARTVContentsIndex.html

Florida Administrative Code Rules that Apply to Florida Housing Programs

<https://www.floridahousing.org/legal/rules>

Affordable Housing Services Contract with DEO

<http://www.floridahousing.org/docs/default-source/legal/contracts/2014/c1334---florida-department-of-economic-opportunity---affordable-housing-services-contract475356c2fb0d6fb69bf3ff00004a6e0f.pdf?sfvrsn=2>

Florida Housing Finance Corporation Operational Audit, State of Florida Auditor General, Report No. 2017-047, November 2016

https://flauditor.gov/pages/pdf_files/2017-047.pdf

2017 Affordable Housing Workgroup Final Report

https://issuu.com/fhfc/docs/ahwg-report_2017-web

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02/13/2019

Meeting Date

250

Bill Number (if applicable)Topic Workforce Housing Tax CreditsName Trey PriceJob Title Executive DirectorAddress 227 S Bronough Street
StreetPhone 850-488-4197Tallahassee
CityFL
State32301
ZipEmail trey.price@floridahousing.orgSpeaking: ☐ For☐ Against

Information

Waive Speaking: ☐

In Support

Against
(The Chair will read this information into the record.)Representing Florida Housing Finance CorporationAppearing at request of Chair: ☐ Yes☐ No

Lobbyist registered with Legislature:



Yes



No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/19

1250

Meeting Date

Bill Number (if applicable)

745668

Amendment Barcode (if applicable)

Topic Workforce Housing

Name SIATEL BATTLESS

Job Title

Address 204 S. MONROE ST

Phone

850-222-8900

Street

City

State

Zip

Email subcomdono@fla.gov

Speaking:

☒ For

☐ Against

☐ Information

Waive Speaking:

☒ In Support

☐ Against

(The Chair will read this information into the record.)

Representing COMMUNITY HEALTH

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☒ Yes

☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/13/19

Meeting Date

250

Bill Number (if applicable)

745668

Amendment Barcode (if applicable)

Topic Workforce HousingName Mark ScheffelJob Title Senior Vice PresidentAddress 1- StreetPhone 303-523-3497

City State Zip

Email MScheffel@InStatePartners.com

Speaking:

☐

For

☐

Against

☒

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing In State Partners

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.***This form is part of the public record for this meeting.**

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.13.19

250

Meeting Date

Topic Workforce HousingName Sarah Suskey

Job Title _____

Address 204 S. Monroe StPhone 850.222.8900City Tallahassee, FL State 32301 Zip _____Email sbscardenas@partners.com

Speaking:

☒ For☐ Against☐ Information

Waive Speaking:

☒ In Support☐ Against

(The Chair will read this information into the record.)

Representing Instate PartnersAppearing at request of Chair: ☐ Yes☒ No

Lobbyist registered with Legislature:

☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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Bill Number (if applicable)

745668

Amendment Barcode (if applicable)

By Senator Flores

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1 A bill to be entitled
 2 An act relating to a pilot state workforce housing tax
 3 credit; creating s. 220.1855, F.S.; defining terms;
 4 providing a credit, within a specified timeframe,
 5 against the corporate income tax for certain taxpayers
 6 owning interests in eligible workforce housing
 7 developments; requiring the Florida Housing Finance
 8 Corporation to make agency awards of the credit;
 9 specifying requirements for claiming and awarding
 10 awards; limiting the amount of awards; providing for
 11 the allocation of annual credit amounts among
 12 specified parties and requiring certification of such
 13 amounts; authorizing recipients of the credit to carry
 14 forward a portion of the credit for a specified time
 15 period; requiring the corporation to establish
 16 procedures to monitor compliance; providing for credit
 17 recapture; authorizing the corporation to adopt rules;
 18 providing applicability and construction; creating s.
 19 420.5096, F.S.; creating the State Workforce Housing
 20 Tax Credit Program; providing the purpose of the
 21 program; requiring the corporation to administer the
 22 program; requiring the corporation to determine which
 23 workforce housing developments are eligible for
 24 certain tax credits; specifying requirements for the
 25 administration of the program; specifying procedures
 26 and requirements for taxpayers applying for the
 27 program; requiring the executive director of the
 28 Department of Revenue to apply credits to tax
 29 liability; creating s. 624.51056, F.S.; requiring that

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 state workforce housing tax credits be allowed against
 31 the insurance premium tax and retaliatory tax after
 32 applying certain deductions and credits; providing
 33 applicability; providing construction; providing an
 34 effective date.
 35

36 Be It Enacted by the Legislature of the State of Florida:

37
 38 Section 1. Section 220.1855, Florida Statutes, is created
 39 to read:

40 220.1855 State workforce housing tax credit.—

41 (1) DEFINITIONS.—As used in this section, the term:

42 (a) "Agency award" means the allocation of a 10-year stream
 43 of state workforce housing tax credits to an eligible workforce
 44 housing development by the Florida Housing Finance Corporation
 45 pursuant to s. 420.5096.

46 (b) "Annual credit amount" means an amount equal to one-
 47 tenth of an agency award to an eligible workforce housing
 48 development which is claimed by the eligible workforce housing
 49 development in each year of the credit period.

50 (c) "Applicable fraction" means a fraction, the numerator
 51 of which is the number of workforce housing units in the
 52 eligible workforce housing development, and the denominator of
 53 which is the number of residential rental units in the eligible
 54 workforce housing development.

55 (d) "Compliance period" means the period of 10 calendar
 56 years beginning with the first calendar year of the credit
 57 period with respect to any building that is, or is part of, an
 58 eligible workforce housing development.

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(e) "Credit period" means, with respect to any building that is, or is part of, an eligible workforce housing development, the period of 10 calendar years beginning with the calendar year in which the last residential building in the eligible workforce housing development is placed in service.

(f) "Eligibility statement" means a statement issued by the Florida Housing Finance Corporation which certifies that a development is an eligible workforce housing development and provides:

1. The calendar year in which the last residential building in the eligible workforce housing development was placed in service;

2. The dollar amount of the agency award under paragraph (2)(d) to the eligible workforce housing development;

3. The maximum qualified basis taken into account in determining the dollar amount;

4. Sufficient information to identify the eligible workforce housing development and the owner of the eligible workforce housing development; and

5. Such other information as the Florida Housing Finance Corporation, in consultation with the director of the department, prescribes by rule.

(g) "Eligible basis" of an eligible workforce housing development means the adjusted basis of such eligible workforce housing development as of the close of the first year of the credit period.

(h) "Eligible workforce housing development" means a building or group of buildings located in this state in which at least 60 percent of the residential units in the building are

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rent-restricted and are workforce housing units.

(i) "Imputed income limitation applicable to the unit" means the income limitation that would apply to individuals occupying the unit if the number of individuals occupying the unit was:

1. In the case of a unit that does not have a separate bedroom, one; or

2. In the case of a unit that has one or more separate bedrooms, one and one half for each separate bedroom.

(j) "Qualified basis" of an eligible workforce housing development means the eligible basis multiplied by the applicable fraction.

(k) "Rent-restricted" means that the gross rent for a residential unit may not exceed 30 percent of the imputed income limitation applicable to the unit.

(l) "Workforce housing unit" means a residential unit in an eligible workforce housing development which is affordable to natural persons or families whose total annual household income does not exceed 90 percent of the area median income, adjusted for household size; or does not exceed 110 percent of the area median income, adjusted for household size, in:

1. Areas of critical state concern designated under s. 380.05, for which the Legislature has declared its intent to provide affordable housing; and

2. Areas that were designated as areas of critical state concern for at least 20 consecutive years before removal of the designation.

(2) AUTHORIZATION TO GRANT STATE WORKFORCE HOUSING TAX CREDITS; LIMITATIONS.-

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(a) A taxpayer owning an interest in one or more eligible workforce housing developments may claim a tax credit against any tax due under this chapter if the owner of the eligible workforce housing development receives an agency award. The tax credits awarded pursuant to the agency award must be claimed in each year of the credit period in amounts equal to the annual credit amount unless carried forward pursuant to paragraph (g). The amount of the agency award and each annual credit amount must be stated on the eligibility statement.

(b) Except as provided in paragraphs (c) and (d), the agency award under paragraph (a) may not exceed 9 percent of the qualified basis of each eligible workforce housing development.

(c) The Florida Housing Finance Corporation shall make agency awards in calendar year 2020, calendar year 2021, or calendar year 2022 as set forth in this paragraph. An agency award may not be made after 2022. The maximum aggregate dollar amount of agency awards to eligible workforce housing developments under this section, combined with the credit under s. 624.50156, is \$50 million in 2020, \$50 million in 2021, and \$50 million in 2022. The limitation in this paragraph on agency awards does not apply to the annual credit amount claimed with respect to an eligible workforce housing development for each year of the credit period.

(d) The dollar amount of the agency award to any eligible workforce housing development may not exceed the amount that the Florida Housing Finance Corporation determines is necessary for the eligible workforce housing development's financial feasibility and its viability as an eligible workforce housing development throughout the credit period. In determining the

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agency award to any eligible workforce housing development, the Florida Housing Finance Corporation shall specify the maximum qualified basis that may be taken into account under this section with respect to that eligible workforce housing development. The maximum qualified basis with respect to an eligible workforce housing development may not exceed the amounts determined in paragraph (1)(f).

(e) A tax credit in the amount of the annual credit amount is not allowed for any year with respect to an eligible workforce housing development unless an extended workforce housing commitment is in effect as of the end of the calendar year. As used in this paragraph, the term "extended workforce housing commitment" means an agreement between the taxpayer and the Florida Housing Finance Corporation which is substantially similar to the agreement specified in 26 U.S.C. s. 42(h)(6)(B).

(f) If an owner of an eligible workforce housing development which receives an agency award is a partnership, limited liability company, S corporation, or similar pass-through entity, the owner may allocate the annual credit amount among its partners, shareholders, members, or other constituent taxpayers in any manner agreed to by such partners, shareholders, members, or other constituent taxpayers. Each year of the credit period, the owner shall certify to the Florida Housing Finance Corporation the portion of the annual credit amount allocated to each partner, shareholder, member, or other constituent taxpayer. Each partner, shareholder, member, or other constituent taxpayer is allowed to claim such portion of the annual credit amount subject to the restrictions in this section.

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(g) Any amount of credit which exceeds the tax due for any year may be carried forward as a tax credit against subsequent years' income tax liability for up to 11 tax years after the year in which the annual credit amount was made pursuant to paragraph (a). Such credit must be applied first to the earliest years possible. Any amount of the credit which is not used may not be refunded to the taxpayer.

(3) PROJECT MONITORING.—The Florida Housing Finance Corporation shall establish such procedures as it deems necessary for monitoring an eligible workforce housing development's compliance with this section and for notifying the director of the department of any noncompliance of which it becomes aware.

(4) CREDIT RECAPTURE.—As of the close of any year in the compliance period, if the amount of the qualified basis of any building with respect to the taxpayer is less than the amount of the qualified basis as of the close of the preceding year, the credit allowable with respect to such year must be proportionately reduced by the percentage reduction in the qualified basis. If credit in excess of this reduced amount has been claimed by any taxpayer with respect to such year, the taxpayer's tax must be increased by the amount of any credit wrongfully claimed. Such adjustment must be made in the year in which the reduction in qualified basis is identified.

(5) RULES; APPLICABILITY OF FEDERAL LAW; CONSTRUCTION.—

(a) The Florida Housing Finance Corporation shall adopt rules necessary to administer this section.

(b) Section 42 of the Internal Revenue Code applies to the credit awarded under this section. However, to the extent that

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section is inconsistent with this section, this section controls.

Section 2. Section 420.5096, Florida Statutes, is created to read:

420.5096 State Workforce Housing Tax Credit Program.—

(1) The State Workforce Housing Tax Credit Program is created for the purpose of stimulating creative private sector initiatives to increase the supply of workforce housing in the state. The Florida Housing Finance Corporation shall administer the program.

(2) The Florida Housing Finance Corporation shall determine which workforce housing developments are eligible for the corporate tax credit available under s. 220.1855 or the insurance premium tax credit available under s. 624.51056, or both. The corporation may exercise all powers necessary to administer the awarding of an agency award, as defined in s. 220.1855(1), and the distribution of the tax credits. The corporation shall ensure that at least 50 percent of annual credits under this section are awarded to projects that will produce workforce housing units affordable to natural persons or families whose total annual household income exceeds 60 percent of the area median income. The board of directors of the corporation shall administer the procedures for agency awards and determine agency awards on behalf of the corporation. The corporation shall prepare an annual plan containing general guidelines for agency awards to eligible workforce housing developments.

(3) The corporation shall adopt procedures for agency awards consistent with s. 220.1855 and this section which will

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ensure the maximum use of available tax credits to encourage development of workforce housing, taking into consideration the timeliness of the application, the location of the proposed project, the relative need and the availability of such housing, the economic feasibility of the project, and the ability of the applicant to complete the project in the calendar year for which the credit is sought. To the extent permitted under 42 U.S.C. ss. 3601-3619 and regulations promulgated thereunder, the corporation shall ensure that projects awarded credits under this section set aside at least 30 percent of their units to be rented by families with essential services personnel as defined in s. 420.5095(3).

(4) The corporation may not grant an agency award to an eligible workforce housing development unless the applicant demonstrates to the satisfaction of the corporation that for every \$1 in tax credits granted to the applicant, this state will benefit at least \$1 in total development costs with respect to the rent-restricted units within such eligible workforce housing development.

(5) (a) A taxpayer wishing to participate in the State Workforce Housing Tax Credit Program must submit to the corporation an application for the agency award of tax credit. The application must identify the proposed workforce housing development and its location and must include evidence that the proposed development is an eligible workforce housing development as defined in s. 220.1855(1). The corporation may request any information from an applicant which is necessary to allow the corporation to make an agency award under the guidelines under subsection (3).

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(b) The corporation's award of an agency award to an eligible workforce housing development must be in writing and must include a statement of the maximum credit allowable to the applicant.

(c) The corporation shall establish procedures for the owner of an eligible workforce housing development to provide a cost certification demonstrating that the agency award does not exceed 9 percent of the qualified basis of the eligible workforce housing development. Once such cost certification is accepted and approved by the corporation, the corporation shall issue to the owner of the eligible workforce housing development an eligibility statement, as defined in s. 220.1855(1). A copy of the eligibility statement must be transmitted to the executive director of the Department of Revenue, who shall apply the annual credit amount to the tax liability of the owner of the eligible workforce housing development or its constituent taxpayers as specified in s. 220.1855(2)(g).

Section 3. Section 624.51056, Florida Statutes, is created to read:

624.51056 State workforce housing tax credit.—

(1) The tax credit authorized by s. 220.1855 also must be allowed against any tax due under s. 624.509(1) or s. 624.5091 after deducting from the tax the deductions for assessments made pursuant to s. 440.51; the credits for taxes paid under ss. 175.101 and 185.08; the credits for income taxes paid under chapter 220; the credit allowed under s. 624.509(5), as such credit is limited by s. 624.509(6); and the credit allowed under s. 624.51055.

(2) All requirements of the tax credit under s. 220.1855

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291 apply to insurers claiming a tax credit under this section.
292 (3) An insurer claiming a credit against premium tax
293 liability under this section is not required to pay any
294 additional retaliatory tax levied pursuant to s. 624.5091 as a
295 result of claiming such credit, and that section does not limit
296 such credit.
297 Section 4. This act shall take effect July 1, 2019.

COMMITTEE: Community Affairs
ITEM: SB 250
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 13, 2019
TIME: 1:30—3:00 p.m.
PLACE: 301 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

CourtSmart Tag Report

Room: SB 301 **Case No.:**
Caption: Senate Committee on Community Affairs

Type:
Judge:

Started: 2/13/2019 1:33:49 PM
Ends: 2/13/2019 1:45:13 PM **Length:** 00:11:25

1:33:48 PM Meeting Called to Order
1:33:58 PM Roll Call
1:34:07 PM Quorum is Present
1:34:12 PM Vice Chair Farmer is acting Chair
1:34:27 PM Back and Forth between Senators Broxson, Farmer, and Flores
1:34:51 PM Senator Flores recognized to introduce SB 250 and Amendment Barcode 745668
1:35:34 PM Senator Flores explains Amendment
1:36:46 PM Comments from Senator Farmer
1:37:46 PM Question from Senator Simmons
1:37:56 PM Response from Senator Flores
1:38:25 PM Follow-up Question from Senator Simmons
1:39:16 PM Response from Senator Flores
1:39:55 PM No Further Questions
1:40:07 PM Slater Bayliss from Community Health Waives in Support
1:40:18 PM Mark Sheffel from Instate Partners with Information
1:40:30 PM Sarah Suskey from Instate Partners Waives in Support
1:40:37 PM No Debate on Amendment
1:40:44 PM Senator Flores Waives Close on Amendment
1:40:47 PM Amendment Barcode 745668 is Adopted
1:40:54 PM Back on CS 250 as Amended
1:41:03 PM Trey Price from Florida Housing Finance Corporation with Information
1:41:16 PM No Debate on CS 250
1:42:16 PM Comments from Senator Farmer
1:42:24 PM Senator Flores Closes on CS 250 as Amended
1:42:54 PM Roll call on CS 250
1:43:31 PM CS 250 is Reported Favorably
1:43:43 PM Senator Broxson with recognition
1:44:04 PM Senator Flores Moves for Committee Staff to make Necessary technical and conforming Changes to CS 250, Motion is Adopted
1:45:04 PM Meeting is Adjourned