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**HOUSE OF REPRESENTATIVES
COUNCIL FOR SMARTER GOVERNMENT
ANALYSIS**

BILL #: CS/HB 547 (PCB LGVA 02--01)
RELATING TO: Affordable Housing
SPONSOR(S): Council for Smarter Government, Committee on Local Government & Veterans Affairs,
Representative Sorensen & Others
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS YEAS 11 NAYS 0
 - (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROP. YEAS 15 NAYS 0
 - (3) FISCAL POLICY & RESOURCES YEAS 10 NAYS 0
 - (4) COUNCIL FOR SMARTER GOVERNMENT YEAS 12 NAYS 0
 - (5)
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I. SUMMARY:

The bill provides for expedited processing of environmental resource permits for affordable housing projects, and addresses limitations on residential building permits in areas of critical state concern. The bill authorizes the Florida Housing Finance Corporation (FHFC) to establish subsidiary corporations and conduct and fund demonstration programs and projects. The FHFC is authorized to establish a procedure for evaluating, scoring, and competitively ranking applications for private activity bond allocation for multifamily projects, and is authorized to establish terms of mortgage loans.

The bill provides for zero to 3 percent interest rates for State Apartment Incentive Loan (SAIL) program loans for projects with an 80 percent occupancy of commercial fishing workers or the homeless. The bill specifies a project is eligible for SAIL funds if it is located in a county that includes, or has included within the previous five years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing, and 100 percent of the units in the project are set aside for persons or families who have incomes below 120 percent of median income. Currently, only Monroe County meets this requirement. The bill provides for Predevelopment Loan Program (PLP) funding to be made on a first-come first-served basis, and authorizes the FHFC to establish criteria for determining threshold compliance with Corporation objectives.

Under the State Housing Initiatives Partnership (SHIP) Program, the bill authorizes a city, county, or local housing financing authority to rely on monitoring and determination of tenant eligibility conducted by another governmental entity, and exempts any loan or grant in the original amount of \$3,000 or less from annual monitoring and determination of tenant eligibility requirements. The bill also revises the limitation on the sales price of eligible housing. The bill exempts from the SHIP set-aside requirements for very-low-income and low-income households a county or eligible municipality that includes, or has included within the previous five years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing. Monroe County is the only local government currently qualifying for this exemption. Finally, the bill requires local government SHIP reports to include the average area purchase price of single-family units rather than the average sales price or value of a single-family unit.

This bill has no direct fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Background

The Florida Legislature has established in s. 420.0003(2), F.S., the goal that by the year 2010, "this state shall ensure that decent and affordable housing is available for all its residents." Affordable housing is defined to mean that monthly rents or mortgage payments do not exceed 30 percent of a very low-income, low-income, or moderate-income household's income, s. 420.0004(3), F.S. Section 420.004(9), F.S., defines low-income persons as:

one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

Section 420.004(10), F.S., defines moderate-income persons as:

one or more natural persons of a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

Section 420.004(14), F.S., defines very-low-income persons as:

one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

In addition to a variety of federally and locally funded affordable housing programs, the Florida Legislature has created and funded several programs designed to achieve the state's affordable housing goal. In 1992, the Legislature dramatically increased its commitment to the provision of affordable housing with passage of the William E. Sadowski Act (chapter 92-317, L.O.F.), which

earmarked a portion of the state's documentary stamp taxes for affordable housing. These funds are appropriated to fund a variety of state and local affordable housing programs.

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (FHFC) administers most of the state's affordable housing programs and oversees the State Housing Initiatives Partnership Program (SHIP) through which local governments receive documentary stamp tax revenues. Programs administered through the FHFC include:

- State Apartment Incentive Loan (SAIL) Program;
- State Housing Initiatives Partnership (SHIP) Program;
- Low Income Rental Housing Tax Credit (LIHTC) Program;
- HOME Investment Partnerships (federally funded);
- Predevelopment Loan Program (PLP);
- Multifamily Mortgage Revenue Bond Program;
- Florida Home Ownership Assistance Program (HAP);
- Single Family Mortgage Revenue Bond Program.

The FHFC was created within the Department of Community Affairs (DCA) as a public corporation. It is an "entrepreneurial public corporation" that is a separate budget entity and is not subject to control, supervision, or direction by DCA. However, a contractual relationship exists between DCA and FHFC identifying performance measures for FHFC and the role of the Inspector General of DCA in analyzing and verifying the performance of the FHFC.

The FHFC is overseen by a board of directors composed of the Secretary of DCA and eight members appointed by the Governor, subject to confirmation by the Senate, from the following:

- (a) One citizen actively engaged in the residential home building industry.
- (b) One citizen actively engaged in the banking or mortgage banking industry.
- (c) One citizen who is a representative of those areas of labor engaged in home building.
- (d) One citizen with experience in housing development who is an advocate for low-income persons.
- (e) One citizen actively engaged in the commercial building industry.
- (f) One citizen who is a former local government elected official.
- (g) Two citizens of the state who are not principally employed as members or representatives of any of the groups specified in paragraphs (a)-(f).

Members of the FHFC Board are appointed for terms of 4 years and the members elect the chair and a vice-chair annually.

Section 420.507, F.S., grants the FHFC broad powers to carry out its statutory purposes.

Housing Program Revenues and Distributions

Sources of funds for financing affordable housing include a portion of the state's documentary stamp tax collections, federal funds, and non-cash sources such as tax-exempt private activity bond allocations and federal housing tax credits. These sources are used in a variety of programs including first and second mortgages for rental and homeownership properties, rental assistance, loan guarantees, and technical assistance.

The documentary stamp tax is imposed on deeds and other documents related to real property at a rate of 70 cents per \$100, and on corporate shares, certificates of indebtedness, promissory notes, wage assignments and retail charge account agreements at a rate of 35 cents per \$100. The following percentages of doc stamp revenues are obligated to affordable housing: 4.8475 percent to the State Housing Trust Fund and 11.3425 percent to the Local Government Housing Trust Fund. The Sadowski Act documentary stamp tax revenues are deposited in the State Housing Trust Fund and the Local Government Housing Trust Fund. Due to the timing of application cycles, credit underwriting and construction schedules, funds may be allocated in one year, but not necessarily expended during the same year. The FHFC receives budget authority from the State Housing Trust Fund in one appropriation category and the FHFC Board determines how much funding should be distributed to each of the state programs (SAIL, HAP, HOME, PLP, and Guarantee). The General Appropriations Act provides specific distributions from the Local Government Housing Trust Fund.

Actual Housing Program Expenditures and Performance Results

The Sadowski Act has significantly increased the level of state funding for affordable housing. Sadowski Act funding began in 1992-93 with approximately \$33 million and totals over \$180 million in 2000-2001. Through this funding and through federal grants and tax credits, the FHFC has assisted in the creation of 145,000 multifamily units and financed 95,000 single-family residences.

Multifamily and Single Family Mortgage Revenue Bond Programs

The Multifamily Mortgage Revenue Bond Program uses both taxable and tax-exempt bonds to provide below market rate loans to non-profit and for-profit developers of rental units who agree to set aside at least 20% of the apartment units for households earning at or below 50% of area median income (AMI) or 40% of units for households earning at or below 60% AMI. The FHFC receives a portion of the state's tax-exempt private activity bond allocation. This allocation is split between the single family and multifamily mortgage revenue bond programs. The Single Family Mortgage Revenue Bond Program uses the proceeds from both taxable and tax-exempt mortgage revenue bonds to finance below market interest rate mortgage loans for very low to moderate-income buyers. The program also offers credit counseling, down payment assistance, and deep subsidy second mortgages.

Among the powers granted to the FHFC in s. 420.507, F.S., are the power to borrow money through the issuance of bonds (420.507(6), F.S.) and the power to designate private activity allocation for tax exempt bonds received by the FHFC pursuant to part VI of chapter 159, F.S., between single-family and multi-family projects (s. 420.507(38)). Section 420.508, F.S., specifies special powers of the FHFC relating to multifamily and single-family projects.

State Apartment Incentive Loan Program (SAIL)

Section 420.5087, F.S., creates the State Apartment Incentive Loan Program (SAIL). The SAIL program is intended to stimulate affordable rental housing development by providing low interest rate second mortgages to developers. The program is designed to bridge the gap between a developer's primary financing and equity resources and the total project cost. The stated statutory intent of the program is to provide housing affordable to very-low-income persons (50% of median

area income). The section provides for funds to be distributed over successive 3-year periods in a manner that meets the needs and demands for very-low-income housing throughout the state. Pursuant to s. 420.5087(1), F.S., at least 10 percent of program funds distributed during a 3-year period must be allocated to the following categories of counties:

- Counties that have a population of more than 500,000 people;
- Counties that have a population between 100,000 and 500,000 people;
- Counties that have a population of 100,000 or less.

Section 420.5087(3), F.S., requires at least 10 percent of SAIL funds be reserved for each of three tenant groups: commercial fishing workers and farm-workers, families, and elderly persons. In addition, the subsection requires that at least 5 percent of SAIL funds be reserved for persons who are homeless.

Section 420.5087(4), F.S., provides that SAIL loans may not exceed the lesser of 25 percent of the total project cost or the minimum amount required to make the project economically feasible. Section 420.5087(6)(a), F.S., directs the FHFC to establish two interest rates for SAIL loans in accordance with s. 420.507(22)(a)1. and 2., F.S.

Section 420.507(22), F.S., authorizes the FHFC to develop and administer the SAIL program. The FHFC is authorized to make first, second, and other subordinated mortgage loans. This subsection provides an exception to the 25 percent of project cost limitation, by allowing loans exceeding 25 percent of project cost only to nonprofit corporations and public bodies which are able to meet specified conditions. Sections 420.507(22)(a) 1. and 2., F.S., provide that mortgage loans shall be made available at the following interest rates:

- Zero to 3 percent interest for sponsors of projects that maintain an 80 percent occupancy of residents qualifying as farmworkers as defined in s. 420.503(18), F.S., over the life of the loan;
- Three to 9 percent interest for sponsors of projects targeted at populations other than farmworkers.

Project Eligibility

Section 420.507(2), F.S., grants the FHFC the power to underwrite and make SAIL loans or loan guarantees to sponsors, provided:

- (a) The sponsor uses tax-exempt financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes which meet the income eligibility requirements of s. 8 of the United States Housing Act of 1937, as amended;
- (b) The sponsor uses taxable financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, which shall be adjusted by the corporation for family size; or
- (c) The sponsor uses the federal low-income housing tax credit, and the project meets the tenant income eligibility requirements of s. 42 of the Internal Revenue Code of 1986, as amended.

This subsection does not prohibit a tenant from qualifying under the income eligibility criteria of paragraphs (a), (b), or (c) due to the tenant's participation in a job training program approved by the FHFC.

Predevelopment Loan Program

Sections 420.521 - 420.529, F.S., create the Predevelopment Loan Program (PLP) to authorize the Corporation to underwrite and make loans and grants for site acquisition and development of land on which housing will be constructed for rental or sale to very-low- and low-income residents. The fees of consultants, architects, engineers and surveyors, and other expenses incurred to develop land may also be reimbursed under this program. Local governments, housing authorities, nonprofit organizations, and other eligible sponsors are eligible to apply for loans and grants up to \$500,000. Section 420.526, F.S., provides that sponsors of farmworker housing shall receive first priority under this program, and the FHFC is authorized to establish further priorities by rule.

Section 420.527, F.S., establishes the application procedure for the PLP. The section requires the FHFC to publish a notice of fund availability and establish a review committee and scoring system to evaluate and rank applications for program funds. The section provides criteria to be used in the scoring of applications and provides for the FHFC to make the final ranking of applicants.

State Housing Initiatives Partnership Program (SHIP)

Part VII of chapter 420, F.S., (ss. 420.9072 -420.9079, F.S.), creates and governs the State Housing Initiatives Partnership (SHIP) program, which channels a portion of documentary stamp tax revenues created by the Sadowski Act to counties and entitlement cities in Florida. The SHIP program allows local governments to use SHIP funds to develop housing programs designed specifically for their communities, and also to use funds for emergency repairs, new construction, rehabilitation, down payment/closing costs, new construction impact fees, construction and gap financing, mortgage buy-downs, special needs housing, home ownership counseling, and property acquisition for housing to be produced within 12 months. A small amount of Sadowski Act funds are also used to provide compliance monitoring of local SHIP activities. SHIP funds also may be used to provide the required match for federal HOME Investment Partnership Program funds and other state and federal funds. The Corporation uses independent contractors to provide technical assistance for counties and cities participating in SHIP.

Eligibility

Pursuant to s. 420.9075(4)(a), F.S., at least 65 percent of a local government's SHIP funds must be reserved for homeownership for eligible persons. At least 75 percent of a local government's SHIP funds must be reserved for construction, rehabilitation, or emergency repair of affordable, eligible housing (s. 420.9075(4)(b), F.S.).

Under SHIP, the sales price or value of new or existing eligible housing may not exceed 90 percent of the average area purchase price in the area where the eligible housing is located, which housing was purchased during the most recent 12 month period for which sufficient statistical information is available or, as established by the U.S. Department of Treasury (s. 420.9075(4)(c), F.S.).

Subsection (27) of s. 420.9071, F.S., defines "sales price" or "value" to mean:

(27) "Sales price" or "value" means, in the case of acquisition of an existing or newly constructed unit, the amount on the executed sales contract. For eligible persons who are building a unit on land that they own, the sales price is determined by an appraisal performed by

a state-certified appraiser. The appraisal must include the value of the land and the improvements using the after-construction value of the property and must be dated within 12 months of the date construction is to commence. The sales price of any unit must include the value of the land in order to qualify as eligible housing as defined in subsection (8). In the case of rehabilitation or emergency repair of an existing unit that does not create additional living space, sales price or value means the value of the real property, as determined by an appraisal performed by a state-certified appraiser and dated within 12 months of the date construction is to commence or the assessed value of the real property as determined by the county property appraiser. In the case of rehabilitation of an existing unit that includes the addition of new living space, sales price or value means the value of the real property, as determined by an appraisal performed by a state-certified appraiser and dated within 12 months of the date construction is to commence or the assessed value of the real property as determined by the county property appraiser, plus the cost of the improvements in either case.

All units constructed, rehabilitated, or otherwise assisted with SHIP funds must be occupied by very-low-income persons, low-income persons, and moderate-income persons. At least 30 percent of a local government's SHIP funds must be reserved for awards to very-low-income persons (50% of median area income) or eligible sponsors who will serve very-low-income persons, and at least an additional 30 percent of the funds must be reserved for awards to low-income persons (80% of median area income) or eligible sponsors who will serve low-income persons. The remaining 40 percent of the funds may be used to assist households with incomes below 120 percent of median income (s. 420.9075(4)(d), F.S.).

Monitoring

Section 420.9075, F.S., governs local housing assistance plans and local partnerships. The section requires the staff or entity that has administrative authority for implementing a local housing assistance plan assisting rental developments to annually monitor and determine tenant eligibility. The section provides that to the extent the FHFC provides the same monitoring and determination, a city, county, or local housing financing authority may rely on such monitoring and determination of tenant eligibility. This requirement is sometimes duplicative of monitoring activities conducted by another governmental entity as required by state or federal affordable housing programs.

Reporting Requirements

Subsection (9) of s. 420.9075, F.S., requires each county or eligible municipality to submit to the FHFC by September 15 of each year a report of its affordable housing programs and accomplishments through June 30 immediately preceding submittal of the report. The report is required to address several specified issues, including the average sales price or value of a single family unit and the amount of rent charged for a rental unit based on unit size.

Areas of Critical State Concern

Section 380.05, F.S., establishes the Areas of Critical State Concern Program and provides for a process whereby the Governor and Cabinet sitting as the Administration Commission adopts a rule designating the area along with principles guiding development. The DCA recommends actions which the local government and state and regional agencies must accomplish in order to implement the principles guiding development. These actions may include revisions to the comprehensive plan, and adoption of land development regulations, density requirements, and special permit requirements.

A rule adopted by the commission designating an area of critical state concern is submitted to the President of the Senate and the Speaker of the House of Representatives for review no later than

30 days before the next legislative session. The Legislature may reject, modify or take no action relative to the adopted rule.

Presently there are 4 Areas of Critical State Concern: the Big Cypress Area, Green Swamp Area, Florida Keys Area and Key West Area of Critical State Concern. Section 380.0552, F.S., ratifies the Florida Keys Area designation, the areas of which are described in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1983. Presently, the boundaries of the Key West Area of Critical State Concern are set forth in chapter 28-36, F.A.C., and the Florida Keys Area of Critical State Concern is defined by chapter 28-29, F.A.C.

Section 380.05(6), F.S., provides for the department's review of land development regulations, comprehensive plans or plan amendments under the act. Under this standard, the department reviews the land development regulation or comprehensive plan amendment for consistency with the principles for guiding development specified under the rule designating the area and approve or reject the land development regulations by final order and "shall determine the compliance of the plan or plan amendment pursuant to s. 163.3184." The department must publish its final order in Florida Administrative Weekly and the final order may be challenged pursuant to s. 120.57, F.S., where the department has the burden of proving the validity of the order.

Monroe County/Affordable Housing

Monroe County is located within an area of critical state concern, pursuant to section 380.0552, F.S., and is currently experiencing a critical shortage of affordable housing. This has been an ongoing problem in the Keys for many years. The Legislature recognized affordable housing as a critical public welfare issue for the Keys as early as 1979, prior to the adoption of critical area plans and regulations. Even then, the Keys economic reliance on tourism combined with its limited land base inherently resulted in a demand-supply problem, inflating the cost of housing. This fundamental problem was apparent even in the 1970s. With the adoption of the Clean Water Act, the potential to overcome this problem through the creation of land by dredge and fill means began to diminish. Similarly, federal regulations also began to limit the potential use of wetlands. In 1986, the Legislature enacted chapter 86-170, L.O.F., to amend s. 380.0552, F.S., to declare its intent to provide affordable housing in close proximity to places of employment in the Florida Keys.

According to data provided by the National Low-Income Housing Coalition (LIHIS) report, *Out of Reach 2001: America's Growing Wage-Rent Disparity*, Monroe County has the highest rental rates in Florida. While statewide fair market rent for a two-bedroom unit was \$694 per month in 2001, Monroe County's monthly rent was \$828. According to the report, income needed to afford a two-bedroom unit in Monroe County was \$33,120, or 62 percent of area median income (\$53,700). Statewide, income needed to afford a two-bedroom unit was \$27,774, or 55 percent of statewide median income (\$50,700). Income needed to afford a three-bedroom unit in Monroe County was \$45,640, or 85 percent of area median income. Statewide, income needed to afford a three-bedroom unit was \$37,194, or 73 percent of statewide median income. Income needed to afford a four-bedroom unit in Monroe County was \$54,320, or 101 percent of area median income. Statewide, income needed to afford a four-bedroom unit was \$43,487, or 86 percent of statewide median income. These estimates are based on the generally accepted standard of spending not more than 30 percent of income on housing costs.

Factors cited by the Monroe County Commission as contributing to the affordable housing shortage include:

- The county's status as an Area of Critical State Concern;

- The geographic uniqueness of Monroe County, including its dependence on bridges and causeways for connection to the mainland;
- Monroe County's Rate of Growth Ordinance (ROGO) that limits the number of new residential units that can be built on a yearly basis;
- A shortage of areas appropriately zoned to accommodate moderate or high density development;
- The application of one of the state's most restrictive building codes; and
- Cost factors, including the highest median housing cost, the highest cost of living, and the highest construction costs in Florida.

A blue ribbon commission created by the Monroe County Board of County Commissioners, the Blue Ribbon Committee on Affordable Housing, issued a report making a number of recommendations regarding how state law and the rules of the Housing Finance Corporation could be changed to encourage the construction of affordable housing in Monroe County. The report is available by contacting the Monroe County Board of County Commissioners.

Affordable Housing in the Keys Summits

In July 2000, DCA Secretary Steve Seibert met with several local governments in the Keys and came away with local requests for help on the affordable housing problem. As part of a major new emphasis on technical assistance, the Secretary chose this issue to be among the first addressed by the Department. A cross-divisional team, including the Florida Housing Finance Corporation, was created to determine how best to assist the Keys. With the support of the Secretary, the team agreed on the following objective: to provide local governments in the Keys with state resources, facilitation skills, and the partners necessary to develop a unified, multi-jurisdictional affordable housing strategy. This involved three basic steps:

- Analyze state programs and recommend specific program changes to enhance affordable housing opportunities in the Keys;
- Engage partners to provide additional assistance to the Keys; and
- Facilitate local discussions to reach consensus among local governments and the state on key recommendations and actions.

Beginning in February 2001, a series of summits on affordable housing in the Keys were conducted in Marathon, Florida. Participants included local government elected officials and staff, the Secretary of DCA, as well as DCA staff, the Director of the FHFC, as well as FHFC staff, Representative Ken Sorensen, Senator Daryl Jones, staff from the House Committee on Local Government & Veterans Affairs, and various interested parties.

At the last summit, held on September 24, 2001, participating local governments agreed to continue to develop and implement local affordable housing action plans, and also agreed to hire an Affordable Housing Coordinator. In addition, a representative of the FHFC stated the Corporation was working on several policy changes to increase the availability of affordable housing in the Florida Keys.

In addition to the issues addressed by the local governments and the FHFC, representatives from the school board and the Sheriff's Office and local business owners indicated that the lack of affordable housing made it difficult to attract and retain employees with moderate incomes. These representatives, along with local business owners, expressed concern that the current focus of affordable housing programs on very-low-income and low-income households did not adequately address the community's need to provide affordable housing for moderate income households. To address these concerns, proposals were developed to allow projects serving households with incomes up to 120 percent of median income to qualify for SAIL funding and to allow the county to use SHIP funds to serve households with incomes up to 120 percent of median income without the current requirement to reserve funds for very-low-income and low-income households. These changes require legislative action.

Rate of Growth Ordinance

As noted above, one of the factors cited by Monroe County as limiting the availability of affordable housing in the Keys is Monroe County's Rate of Growth Ordinance. Policy 101.2.1 of Rule 28.20.100, Florida Administrative Code, requires Monroe County to establish a Permit Allocation System, or rate of growth ordinance, for new residential development, but provides that this policy is superseded by Policy 101.2.13 for an interim period of time. Policy 101.2.13 requires Monroe County to establish an interim Permit Allocation System for new residential development, and requires the Department of Environmental Protection, the Department of Health, the Department of Community Affairs, and Monroe County to develop a coordinated permit review process that insures that no state agency shall issue a wastewater disposal permit that would allow development in excess of the number of permits that Monroe County may issue under the interim Permit Allocation System for new residential development. Similarly, the policy provides that Monroe County shall not issue development permits in excess of wastewater disposal permits that the Department of Health may issue or wastewater treatment plant construction permits that the Department of Environmental Protection may issue.

Policy 101.2.13 establishes a minimum number (88 units) and a maximum number (182 units) of new residential permits per year. New residential permits beyond the minimum established in Rule 28.20.100, Florida Administrative Code, are allowed but are limited to the number of nutrient reduction credits earned within the same unincorporated ROGO area. Rule 28.20.100, Florida Administrative Code, provides that nutrient reduction credits shall be earned according to a schedule established in the rule. Policy 101.2.13 also provides for the unit cap for new residential development to be linked to a specified work program.

Monroe County and the Department of Community Affairs are required to annually report to the Administration Commission on the degree to which the work program objectives for that year have been achieved. The Administration Commission must consider these reports and determine whether substantial progress has been achieved toward accomplishing the tasks of the work program. If the Administration Commission determines substantial progress has not been made, the unit cap for residential development must be reduced by at least 20 percent for the following year. If the Administration Commission determines substantial progress has been made, the Commission must increase the unit cap for new residential development for the following year up to a maximum of 227 units.

Last year, approximately 25 ROGO units were not used due to a lack of nutrient credits, which must also be available to obtain a building permit. This year, it is anticipated that the number of units not used will increase.

Management and Storage of Surface Waters

Part IV of chapter 373, F.S., governs permitting functions related to stormwater control, the management and storage of surface waters, and wetlands resource management. Section 73.4141, F.S., grants water management districts or the Department of Environmental Protection (DEP) 30 days after receipt of a permit application under part IV of chapter 373, F.S., to request submittal of additional information, if necessary. The section grants an applicant a mechanism to administratively challenge such request if the applicant believes the request is not authorized by law or rule. A 30-day time frame is provided in which the DEP or districts, as applicable, may request specific information, if the applicant has supplied additional information. An applicant need not answer this last set of questions, and the section provides that the applicant can require the districts or DEP, as applicable, to proceed in processing the permit application. The section provides a 90-day time frame for a permit to be issued or denied and specifies when the clock begins.

C. EFFECT OF PROPOSED CHANGES:

Powers of the Corporation

The bill authorizes the FHFC to establish subsidiary corporations for the purpose of taking title to and managing and disposing of property acquired by the FHFC. The bill also authorizes the FHFC to conduct and fund, solely from funds derived from amounts other than those deposited into the State Housing Trust Fund, demonstration programs and projects which further the statutory purposes of the FHFC, including the power to establish selection criteria by rule or by means of requests for proposals.

Multifamily and Single Family Mortgage Revenue Bond Programs

The bill authorizes the FHFC to establish by rule a procedure for evaluating, scoring, and competitively ranking all applications for private activity bond allocation in connection with multifamily projects. The bill also authorizes the FHFC to establish terms of mortgage loans, including applicable security documents and limitations on sources and uses of funds.

State Apartment Incentive Loan Program (SAIL)

The bill provides that interest rates for SAIL loans to sponsors of projects that maintain an 80 percent occupancy of residents qualifying as commercial fishing workers or the homeless shall be between zero and 3 percent. The bill also revises current statutory provisions authorizing the Corporation to make SAIL loans subject to contingent interest to provide that the Corporation may make such loans subject to contingent interest for all SAIL loans based upon available cash flow of the projects.

The bill provides that a project is eligible for SAIL funds if it is located in a county that includes, or has included within the previous five years, an area of critical state concern designated or ratified by the legislature for which the legislature has declared its intent to provide affordable housing, and 100 percent of the units in the project are set aside for persons or families who have incomes below 120 percent of the state or local median income, whichever is higher. Currently, only Monroe County meets this requirement.

Predevelopment Loan Program (PLP)

The bill provides for funding for the Predevelopment Loan Program to be available on a first-come first-served basis, unless otherwise established by FHFC rule. The bill also authorized the FHFC to establish by rule criteria for determining threshold compliance with Corporation objectives, and repeals the requirement that FHFC establish a review committee and scoring system for evaluating and ranking applications.

State Housing Initiative Partnership Act Program (SHIP)

The bill authorizes a city, county, or local housing financing authority to rely on monitoring and determination of tenant eligibility conducted by another governmental entity to the extent the entity provides the same monitoring and determination. The bill provides that any loan or grant in the original amount of \$3,000 or less shall not be subject to the annual monitoring and determination of tenant eligibility requirements. The bill also allows the limitation on the sales price of eligible housing -- 90 percent of the average area purchase price -- to be calculated for any 12-month period beginning not earlier than the fourth calendar year prior to the year in which the award occurs.

The bill exempts from the SHIP set-aside requirements for very-low-income and low-income households a county or eligible municipality that includes, or has included within the previous five years, an area of critical state concern designated or ratified by the legislature for which the legislature has declared its intent to provide affordable housing. Rather, such a county or municipality may use its SHIP funds to serve households with incomes that do not exceed 120 percent of area median income. Monroe County is the only local government currently qualifying for this exemption.

The bill requires local government SHIP reports to include the average area purchase price single-family units rather than the average sales price or value of a single-family unit.

Management and Storage of Surface Waters

The bill provides for expedited processing of surface water resource permits for affordable housing projects.

Rate of Growth Ordinance

The bill addresses the availability of residential building permits in the Florida Keys Area of critical state concern. The bill provides that any units (allowed residential development permits) not used during a year may be carried over to the subsequent year. These carried over units will be available in the future when sufficient nutrient credits are available.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Subsection (3) of s. 373.4141, F.S., relating to stormwater control, the management and storage of surface waters, and wetlands resource management, is amended to require processing of applications for permits for affordable housing projects to be expedited to a greater degree than other projects.

Section 2. A new subsection (10) is added to s. 380.0552, F.S., to provide that for any rate of growth ordinance adopted pursuant to this section, under which an annual unit cap for new residential development is established, any units not used during the year for which the unit cap applies shall be carried over to the subsequent year and added to the unit cap for the subsequent year.

Section 3. Paragraph (a) of subsection (22) of s. 420.507, F.S., is amended to revise a provision authorizing the Corporation to make SAIL loans subject to contingent interest to provide that the Corporation may make such loans subject to contingent interest for all SAIL loans based upon available cash flow of the projects. The paragraph is further amended to provide that interest rates for State Apartment Incentive Loan (SAIL) Program loans to sponsors of projects that maintain an 80 percent occupancy of residents qualifying as commercial fishing workers, as defined in s.

420.503(18), F.S., or qualifying as the homeless, as defined in s. 420.621(4), F.S., shall be between zero and 3 percent.

Subsection (40) is added to s. 420.507, F.S., to authorize the Florida Housing Finance Corporation (FHFC) to establish subsidiary corporations for the purpose of taking title to and managing and disposing of property acquired by the FHFC. The new subsection provides that such subsidiary corporations shall be public corporations wholly owned by the FHFC, and shall be entitled to own, mortgage, and sell property on the same basis as the FHFC. The new subsection further provides that such subsidiary corporations shall be deemed corporations primarily acting as agents of the state, within the meaning of s. 768.28, F.S., relating to sovereign immunity, on the same basis as the FHFC.

Subsection (41) is added to s. 420.507, F.S., to authorize the FHFC to conduct and fund, solely from funds derived from amounts other than those deposited into the State Housing Trust Fund, demonstration programs and projects which further the statutory purposes of the FHFC, including the power to establish selection criteria by rule or by means of requests for proposals.

Section 4. A new subsection (6) is added to s. 420.508, F.S., relating to special powers of the FHFC, to authorize the FHFC to establish by rule a procedure for evaluating, scoring, and competitively ranking all applications for private activity bond allocation in connection with multifamily projects financed under part V of chapter 420, F.S.

A new subsection (7) is added to s. 420.508, F.S., relating to special powers of the FHFC, to authorize the FHFC to establish terms of mortgage loans funded pursuant to part V of chapter 420, F.S., including applicable security documents and limitations on sources and uses of funds.

Section 5. Subsection (2) of s. 420.5087, F.S., relating to the SAIL program, is amended to provide that a project is eligible for SAIL funds if it is located in a county that includes, or has included within the previous five years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing, and 100 percent of the units in the project are set aside for persons or families who have incomes below 120 percent of the state or local median income, whichever is higher.

Section 6. Subsection (3) of s. 420.526, F.S., related to the Predevelopment Loan Program (PLP), is amended to provide that program funds shall be made available on a first-come, first-served basis, unless otherwise established by FHFC rule. The section deletes existing language providing that priorities in addition to the statutory priority provided for sponsors of farmworker housing shall be established by rule of the FHFC.

Section 7. Section 420.527, F.S., relating to application procedures for the PLP, is amended to delete subsection (2), which provides for applications proposing the linkage of predevelopment funds with other financing offered through the corporation to receive preference in funding. The section also deletes subsection (3), which requires the FHFC to publish a notice of fund availability.

Current subsection (4) is renumbered as subsection (2) and amended to delete language requiring the FHFC to establish a review committee and scoring system for evaluating and ranking applications. The subsection is amended to delete current language requiring the FHFC to make final rankings of applications and to decide which applications become program participants. The subsection is further amended to require the FHFC to establish by rule the criteria for determining threshold compliance with corporation objectives, and to provide that final decisions regarding funding shall be approved by the FHFC board.

Subsection (5) is renumbered as subsection (3) and amended to reflect the deletion of the review committee and scoring system, and to provide the criteria used to determine threshold compliance.

Section 8. Paragraph (e) of subsection (3) of s. 420.9075, F.S., relating to State Housing Initiative Partnership (SHIP) local housing assistance plans, is amended to authorize a city, county, or local housing financing authority to rely on monitoring and determination of tenant eligibility conducted by another governmental entity to the extent the entity provides the same monitoring and determination. The paragraph is further amended to provide that any loan or grant in the original amount of \$3,000 or less shall not be subject to the annual monitoring and determination of tenant eligibility requirements.

Paragraph (c) of subsection (4) of s. 420.9075, F.S., relating to SHIP local housing assistance plans, is amended to allow the average area purchase price to be calculated for any 12-month period beginning not earlier than the fourth calendar year prior to the year in which the award occurs.

Paragraph (d) of subsection (4) of s. 420.9075, F.S., relating to required set-asides for very-low-income and low-income households, is amended to exempt from these requirements a county or eligible municipality that includes, or has included within the previous five years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing. The paragraph is further amended to require an exempted county or municipality to use its SHIP funds to serve households with incomes that do not exceed 120 percent of area median income.

Subsection (9) of s. 420.9075, F.S., relating to SHIP reporting requirements, is amended to require local government SHIP reports to include the average area purchase price of single-family units rather than the average sales price or value of a single family unit.

Section 9. An effective date of upon becoming a law is provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Section 8 of the bill amends paragraph (e) of subsection (3) of s. 420.9075, F.S., relating to SHIP local housing assistance plans, to authorize a city, county, or local housing financing authority to rely on monitoring and determination of tenant eligibility conducted by another

governmental entity to the extent the entity provides the same monitoring and determination. This provision may result in cost savings for local governments by reducing duplicative effort.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Several provisions in the bill may have a direct economic impact on the private sector. Section 1 of the bill, which provides for expedited processing of surface water resource permits for affordable housing projects, may reduce delays and the costs associated with delays in receiving required permits. Section 3 of the bill, which provides for zero to 3 percent interest rates for State Apartment Incentive Loans (SAIL) program loans for projects that maintain an 80 percent occupancy of residents qualifying as commercial fishing workers or the homeless, will reduce the financing costs for such projects. Section 5 of the bill allows the use of SAIL funds for projects serving households with moderate incomes in specified areas of critical state concern. Developers of such projects and moderate-income households could benefit from this provision. Section 8 of the bill allows the limitation on the sales price of eligible housing -- 90 percent of the average area purchase price -- to be calculated for any 12-month period beginning not earlier than the fourth calendar year prior to the year in which the award occurs. This provision may make it possible for program participants to purchase homes that would otherwise not qualify. Section 8 also exempts from the SHIP set-aside requirements for very-low-income and low-income households counties or eligible municipalities that include, or have included within the previous five years, an area of critical state concern meeting specified criteria. In such areas, developers of such projects and moderate income households could benefit from this provision.

D. FISCAL COMMENTS:

As noted in the "Present Situation," the FHFC receives budget authority from the State Housing Trust Fund in one appropriation category, and the FHFC Board determines how much funding should be distributed to each of the state programs (SAIL, HAP, HOME, PLP, and Guarantee). Section 3 of the bill authorizes the FHFC to conduct and fund demonstration programs and projects which further the statutory purposes of the FHFC, including the power to establish selection criteria by rule or by means of requests for proposals. As a result, the bill allows the FHFC to fund demonstration programs and projects using funds from the State Housing Trust Fund. The bill places no limitations on such expenditures.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 14, 2002, the Council for Smarter Government considered HB 547 and passed the bill as a council substitute. The council substitute incorporates two amendments adopted by the House Transportation & Economic Development Appropriations Committee that were traveling with the bill. The first amendment requires demonstration projects to be funded from funds other than those deposited to the State Housing Trust Fund. The second amendment clarifies existing statutory language that allows the Florida Housing Finance Corporation to collect or defer interest on State Apartment Incentive Loans contingent upon a development's available cash flow.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Thomas L. Hamby, Jr.

Staff Director:

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT
APPROPRIATIONS:

Prepared by:

Kurt Hamon

Staff Director:

Eliza Hawkins

AS FURTHER REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:

Douglas Pile

Staff Director:

Lynne Overton

STORAGE NAME: h0547s1.sgc.doc

DATE: February 15, 2002

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AS FURTHER REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

Staff Director:

Thomas L. Hamby, Jr.

Don Rubottom