SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Transportation and Economic Development Appropriations Committee

BILL: CS/SB 132

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Affordable Housing

DATE: April 24, 2006 REVISED: 4/20/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	**Fav/CS**
2.	McKay	Wilson	GO	**Fav/1 amendment**
3.	Weaver	Martin	TA	**Pre-meeting**
4.			WM	
5.			RC	
6.				

Please see last section for Summary of Amendments

- [ ] Technical amendments were recommended
- [ ] Amendments were recommended
- [X] Significant amendments were recommended

I. Summary:

This bill implements a number of revisions to Florida's affordable housing programs, and addresses a number of related land use and regulatory issues. Specifically, the bill implements the following major provisions:

- Requires local governments to identify surplus lands and, where appropriate, make such lands available for purposes of affordable housing;
- Authorizes local governments and special districts to provide housing assistance to employed personnel;
- Provides financial incentives and programmatic changes to facilitate increased production of housing units for "extremely low income persons" (30 percent of area median income);
- Creates the *Community Workforce Housing Innovation Program* to provide housing assistance for essential services personnel (teachers, law enforcement officers, firefighters, nurses, etc.) in high cost counties, whose incomes do not exceed 140 percent of the area median income;
- Eliminates the $243 million cap on the distribution of documentary stamp tax revenues to the State Housing Trust Fund and the Local Government Housing Trust Fund, which is set to take effect on July 1, 2007;

- Increases the income thresholds governing homeownership programs and increases the percentage of the home purchase price available as assistance;
- Provides additional flexibility and incentives for the development of multi-family housing;
- Revises certain regulatory requirements governing the development of affordable housing, including manufactured housing and mobile homes;
- Implements several provisions of the Governor's Hurricane Preparedness, Response and Recovery proposal, including the Home Retrofit Hardening Program; and
- Revises allocation provisions relating to the Community Contribution Tax Program.

This bill substantially amends the following sections of the Florida Statutes: 125.379, 163.3180, 166.0451, 189.4155, 191.006, 197.252, 201.15, 212.08, 215.619, 220.183, 253.034, 295.16, 380.06, 380.0651, 420.0004, 420.503, 420.507, 420.5087, 420.5088, 420.9075, 420.9079, 624.5105, 723.083, and 1001.42. This bill creates sections 191.1981 and 420.9077 of the Florida Statutes, as well as unnumbered sections of the Florida Statutes. This bill repeals sections 420.37 and 420.530 of the Florida Statutes.

II. Present Situation:

Florida's Affordable Housing Programs – The Florida Housing Finance Corporation (Florida Housing) serves as the state's lead housing agency. The Florida Housing Finance Corporation administers a number of multifamily, single family and special programs that help low and moderate income Floridians obtain safe, decent affordable housing. Florida Housing Finance Corporation's programs are funded in part with revenues generated by the documentary stamp tax, which are most often coupled with federal funding. These "affordable housing" programs have traditionally targeted families making 60 percent or less of the area median income (AMI) in the rental programs, and those making 80 percent or less of AMI in the home ownership programs. Major affordable housing programs administered by the Florida Housing Finance Corporation include:

State Apartment Incentive Loan **-** The State Apartment Incentive Loan (SAIL) program provides low-interest loans on a competitive basis to developers of affordable rental housing each year. SAIL funds provide gap financing that allows developers to obtain the full financing needed to construct affordable multifamily units. SAIL dollars are available to individuals, public entities, and nonprofit or for-profit organizations for the construction or substantial rehabilitation of multifamily units. Special consideration is given to properties that target specific demographic groups such as the elderly, homeless people, farmworkers, and commercial fishing workers.

A portion of SAIL funds is set aside to fund the Elderly Housing Community Loan (EHCL) program. This program provides up to $750,000 in loans to make substantial improvements to existing affordable elderly rental housing. The EHCL program generally has one competitive funding cycle each year and the application period is open for a minimum of 60 days. These funds are available for the purpose of making building preservation, sanitation repairs or improvements required by federal, state or local regulation codes, and for life safety or security related improvements.

Low Income Housing Tax Credits **-** The competitive Housing Credit program provides for-profit and nonprofit organizations with a dollar-for dollar reduction in federal tax liability in exchange for the acquisition and substantial rehabilitation or new construction of affordable rental housing units. Special consideration is given to properties that target specific demographic groups such as the elderly, homeless people, farmworkers and commercial fishing workers. Consideration is also given to properties that target specific geographic areas such as the Florida Keys, rural areas, urban infill areas, and Front Porch Florida communities.

State Housing Initiatives Partnership **-** The State Housing Initiatives Partnership (SHIP) program provides funds to local governments on a population-based formula as an incentive to produce and preserve affordable housing for very low, low, and moderate income families. These funds are derived from the collection of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust Fund. SHIP funds are distributed on an entitlement basis to all 67 counties and 48 Community Development Block Grant entitlement cities in Florida. The minimum allocation per county is $350,000 and the maximum allocation is over $9 million. In order to participate, local governments must establish a local housing assistance program by ordinance; develop a local housing assistance plan and housing incentive strategy; amend land development regulations or establish local policies to implement the incentive strategies; form partnerships and combine resources in order to reduce housing costs; and ensure that rent or mortgage payments within the targeted areas do not exceed 30 percent of the AMI limits, unless authorized by the mortgage lender.

SHIP funds may be used to fund emergency repairs, new construction, rehabilitation, down payment and closing cost assistance, impact fees, construction and gap financing, mortgage buy-downs, acquisition of property for affordable housing, matching dollars for federal housing grants and programs, and homeownership counseling. Each participating local government may use up to ten percent of their SHIP funds for administrative expenses.

Homeownerhip Loan Program - The Homeownership Loan Program allows developers to apply for funding through either the HOME Investment Partnerships program or the Homeownership Assistance Program (HAP). Funding is obtained through a competitive process to assist with the construction of homes or to provide purchase assistance to the homebuyer for up to 25 percent of the purchase price of the home. Currently, a minimum of 30 percent of the homes must be sold to eligible homebuyers who have an adjusted income that does not exceed 50 percent of the AMI, and a minimum of another 30 percent of the homes must be sold to eligible homebuyers who have an adjusted income that does not exceed 80 percent AMI. Any remaining homes must be sold to persons or households that have an adjusted income that does not exceed 150 percent AMI. The HOME program is a federal program available to eligible for-profit and nonprofit developers, local housing agencies, community housing development organizations, and public housing authorities. HAP is a state funded program tailored to nonprofit organizations and nonprofit sponsors, as well as community based organizations.

In the wake of the 2004 and 2005 hurricane seasons, the state has played a major role in housing assistance and recovery efforts. For example, during fiscal year 2005-2006, Florida Housing Finance Corporation administered $208 million allocated through the Hurricane Housing Recovery Program and $42 million allocated through the Rental Recovery Loan Program. These two programs, modeled on existing home ownership and multifamily rental programs managed by Florida Housing Finance Corporation were used for a variety of purposes, including rehabilitation and reconstruction, home purchase assistance, home construction assistance, housing repair and emergency repair.

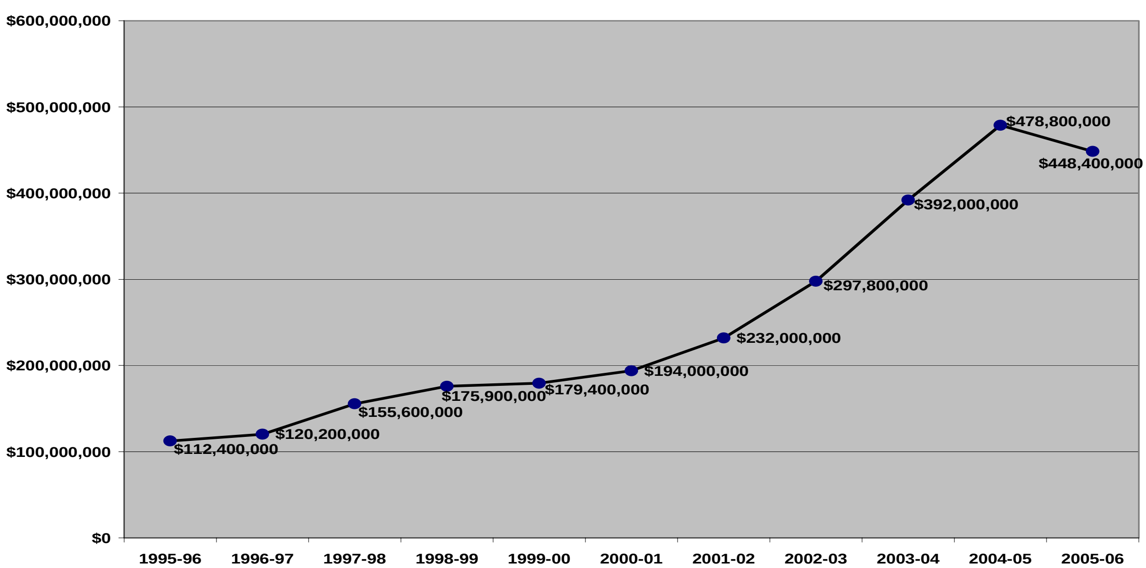
Affordable Housing Funding - In 1992, the Florida Legislature adopted the William E. Sadowski Affordable Housing Act. The Sadowski Act provides both the funding mechanism for a dedicated source of revenue for state and local housing programs, and a flexible but accountable framework for local programs that stimulates local economies. The Act establishes a dedicated revenue source for affordable housing, with two phases for funding implementation:

- A ten-cent increase to the documentary stamp tax paid on the transfer of real estate beginning August 1992, and

- A reallocation of an additional ten cents of existing documentary stamp tax revenues from general revenue, beginning July 1995.

Sadowski Act monies are statutorily dedicated by formula to the state and local housing trust funds with 70 percent of the revenue dedicated to local governments through the SHIP program and 30 percent of the revenue dedicated to the state to fund programs such as SAIL and HAP. As depicted in Table 1, annual revenues to the housing trust funds has increased significantly in recent years as Florida's real estate market has experienced steady growth. Pursuant to ch. 2005-192, L.O.F., effective July 1, 2007, the amounts distributed to the housing trust funds will be capped at $243 million annually.

Table 1. Florida Housing Trust Funds - Annual Revenues

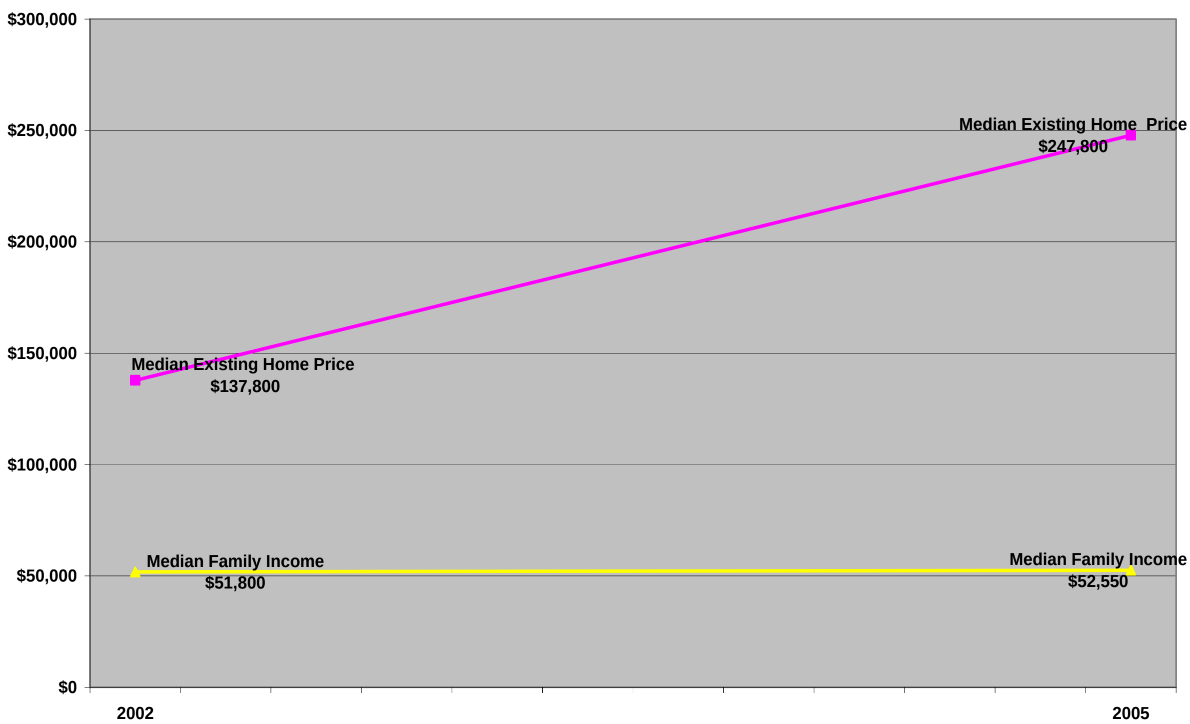


Recent Housing Trends - Due to dramatic increases in housing costs coupled with modest rises in incomes, many low income and moderate income Florida families are finding it difficult to obtain safe, decent, and affordable rental and single family housing. Compounding concerns is the fact that Federal housing programs, especially those that typically serve individuals with the lowest incomes, have experienced significant budget reductions in recent years. This has placed increasing pressure on state and local governments to provide housing assistance for persons at the lowest income levels.

In addition to the needs of the very low and low income families, recent steep increases in real estate prices have also effectively priced moderate income families out of the homeownership market in many communities. The average cost of a home in Florida has risen by close to 90 percent since 2001 with average wages rising only about 10 percent. This has exacerbated the state's existing affordable housing needs. The result is a widening of the "gap" in the ability of many working families to access affordable rental and owner housing. Some Florida communities are experiencing a critical shortage of housing for individuals who are employed in essential service occupations, such as teachers, police, hospital workers, and others who do not qualify for existing affordable housing programs. As a result, these communities are finding it increasingly difficult to recruit, employ, and retain personnel necessary to provide essential public services to Floridians.

In 2004, the Shimberg Center at the University of Florida reported that the mean sales price for homes in Florida was $222,849. The median sales price was $162,050. Based on the reported median sales price of homes in Florida, the following counties had average sales prices above the statewide average: Monroe, Franklin, Walton, Gulf, Martin, Miami-Dade, Nassau, Sarasota, Lee, Seminole, Orange, Indian River, Flagler, and Charlotte.

Table 2 - Median Sales Price, Single-Family, Existing Homes & Median Family Income Comparison 2002 vs. 2005



The need for "workforce housing" to meet existing and future housing needs for working families whose incomes, from 80 percent to 150 percent AMI typically make them ineligible for existing housing programs, has recently become increasingly evident. In response, a number of "high-cost" communities have suggested that state and local governments should encourage the implementation of innovative housing strategies that are focused on the needs of moderate-income Floridians.

Increasing housing costs and the current shortage of affordable housing also have significant implications for residents living in manufactured and mobile homes. Mobile home parks often provide housing for those who are unable to afford site-built housing but no longer wish to be a renter. There are also many retirees living in mobile home parks. Many mobile homes in Florida are located in parks for which the land use designation may change in the future and park residents will be forced to relocate. The active real estate market in Florida and more severe hurricane seasons have placed even greater pressure on mobile home park owners to redevelop or sell their parks.

Community Contribution Tax Credit Program - Under the community contribution tax credit program, corporations, insurance companies, and persons who collect or remit sales or use taxes may be able to receive tax credits for making donations to certain low-income housing and community development projects.

Credits Available - Available tax credits under the program may be taken against sales or use taxes, corporate income taxes, and insurance premium taxes.[1] Tax credits are limited to 50 percent of the amount of a "community contribution" or donation to a maximum of $200,000 annually per donor.[2] The total amount of community contribution tax credits available per year under the program is $12 million.[3] Tax credits against sales or use taxes are granted as a refund against sales and use taxes reported on returns and remitted in the 12 months preceding the application to the Department of Revenue (DOR) for a refund.[4] Tax credits against corporate income taxes and insurance premium taxes are claimed against taxes due.[5] The law reserves 80 percent of $10 million of the available tax credits for businesses that contribute to home ownership opportunities for low-income and very-low-income households for the first 6 months of each fiscal year.[6] For credits in excess of $10 million, 70 percent is reserved for businesses that contribute to low income housing programs for the first 6 months of each fiscal year.[7]

Form and Uses of Contributions - Community contributions or donations must take the following forms: (1) cash or other liquid assets; (2) real property; (3) goods or inventory; or (4) other physical resources.[8] For purposes of credits against insurance premium taxes and corporate income taxes, the Department of Revenue is authorized to identify "other physical resources" that qualify as a community contribution. For purposes of credits against sales or use taxes, OTTED is authorized to identify "other physical resources." Community contributions must be used for projects to provide: low and very low-income housing; commercial, industrial, or public resources and facilities; entrepreneurial and job development opportunities for

[1] Sections 212.08(5)(q), 220.183, and 624.5105, F.S.
[2] Sections 212.08(5)(q)1.a. and c., 220.183(1)(a) and (b), and 624.5105(1)(a) and (b), F.S.
[3] Sections 212.08(5)(q)1.e., 220.183(1)(c), and 624.5105(1)(c), F.S.
[4] Section 212.08(5)(q)1.b., F.S.
[5] Sections 220.183(1)(a) and 624.5105(1)(a), F.S.
[6] Sections 212.08(5)(q)2.e.(I), 220.183(2)(b)2., and 624.5105(2)(e)1., F.S.
[7] *Id.*
[8] Sections 212.08(5)(q)2.a., 220.03(1)(d), and 624.5105(5)(a), F.S.

low-income persons; access to high speed broadband capability for rural enterprise zones; and educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone designated pursuant to s. 290.0065, F.S. (the Florida Holocaust Museum in St. Petersburg).[9]

Tax Credit Application and Approval Process - Applications to receive community contribution tax credits must be submitted to OTTED. The application must set forth the terms of the application, such as the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. For the purposes of credits against corporate income taxes and sales or use taxes, the sponsor must verify in the application for tax credits that the community contribution has been received.[10] For the purposes of credits against insurance premium taxes, the sponsor must state its willingness to receive the contribution in the application for tax credits.[11] After approval for community contribution tax credits is received by an applicant, the applicant must also claim the credit from DOR.[12] Unused credits against corporate income taxes and insurance premium taxes may be carried forward for 5 years.[13] Unused credits against sales taxes may be carried forward for 3 years.[14]

III. Effect of Proposed Changes:

Section 1 creates s. 125.379, F.S., which provides that every 3 years counties must prepare an inventory of all real property within its jurisdiction to which the county holds fee simple title. The inventory list must include the address and tax identification number of each property, and specify whether the property is vacant or improved. County planning staff are required to review the inventory list and identify each property that is appropriate to surplus for affordable housing. Upon approval of the county commission, the properties identified as appropriate to surplus must be offered for sale and the proceeds used to purchase land for affordable housing development or donated to the Local Government Housing Trust Fund, sold with a restriction that requires any development on the property to include a specified percentage of permanently affordable housing, or donated to a non-profit for the construction of permanently affordable housing.

Section 2 creates s. 166.0451, F.S., to require municipalities to prepare an inventory of all real property within its jurisdiction to which the municipality holds fee simple title. The inventory list must include the address and tax identification number of each property, and specify whether the property is vacant or improved. City planning staff are required to review the inventory list and identify each property that is appropriate to surplus for affordable housing. Upon approval of the city commission, the properties identified as appropriate to surplus must be offered for sale and the proceeds used to purchase land for affordable housing development or donated to the Local Government Housing Trust Fund, sold with a restriction that requires any development on the property to include a specified percentage of permanently affordable housing, or donated to a non-profit for the construction of permanently affordable housing.

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[9] Sections 212.08(5)(q)2.b., 220.03(1)(t), and 624.5105(2)(b) and (5)(e), F.S.
[10] Sections 212.08(5)(q)3.b. and 220.183(3)(b), F.S.
[11] Section 624.5105(3)(b), F.S.
[12] Section 212.08(5)(q)3.c., F.S., and Rules 12A-1.107(4), 12B-8.001(3)(d), and 12C-1.0188(3), F.A.C.
[13] Sections 220.183(1)(e) and 624.5105(1)(e), F.S.
[14] Section 212.08(5)(q)1.b. and 5., F.S.

Section 3 amends s. 163.3180, F.S., to exempt manufactured housing developments that are located within agriculture, rural lands, and similar land use classifications and are served by self-contained water and wastewater facilities from transportation concurrency requirements contained in ch. 163, F.S.

Section 4 provides a statement of important state interest in support of the use of surplus lands owned by governmental entities for purposes of affordable housing.

Section 5 amends s. 189.4155, F.S., to authorize special districts to provide housing and housing assistance to employed personnel.

Section 6 amends s. 191.006, F.S., expanding the powers which a special district may exercise by majority vote to include the power to provide housing or housing assistance for its employed personnel.

Section 7 creates s. 196.1981, F.S., to provide additional guidance for property appraisers in the assessment of just valuation of affordable housing. This section specifies that certain properties used by persons with income limits defined as low, moderate, and very low, shall be assessed according to the actual income from rent-restricted units, and the income approach must be used.

Section 8 amends s. 197.252, F.S., to amend eligibility requirements governing the homestead tax deferral program. The tax deferral program allows qualifying homestead property owners to defer ad valorem and non-ad valorem assessments until there is change in the ownership or use of the property, at which time the deferred taxes, assessments, and interests are due and payable. The bill revises program eligibility requirements to decrease the age limit (from 70 to 65) and increase the income threshold (from $12,000 to $23,460). The bill also reduces the maximum interest rate that may be charged on deferred property taxes from 9.5 to 7 percent.

Section 9 amends s. 201.15, F.S., to provide that documentary stamp taxes distributed for the Florida Forever/Preservation 2000 bonds and Everglades Restoration bonds are to be distributed on pro rata basis. This provision will allow for the issuance of Everglades Restoration bonds on a parity basis, strengthening the credit for those bonds. The bill also revises documentary stamp revenue distribution to implement several necessary technical changes to appropriation provisions contained in ch. 2005-290, L.O.F. Finally, the bill increases the annual distribution of documentary stamp tax revenues for funding for the Century Commission from $250,000 to $870,000.

Section 10 amends s. 201.15, F.S., as effective July 1, 2007, to remove the $243 million cap on the distribution of documentary stamp tax revenues to the State Housing Trust Fund and the Local Government Housing Trust Fund, which is set to take effect on July 1, 2007. Additionally, this section is amended to conform to the changes implemented in section 9 of the bill.

Section 11 amends s. 215.619, F.S., to provide that documentary stamp taxes distributed for the Florida Forever/Preservation 2000 bonds and Everglades Restoration bonds are to be distributed on pro rata basis. This provision will allow for the issuance of Everglades Restoration bonds on a parity basis, strengthening the credit for those bonds. This conforms this section to changes implemented in sections 9 and 10 of the bill.

Section 12 amends s. 220.183, F.S., to change the allocation of the current $12 million in tax credits authorized for the Community Contribution Tax Program. Separate annual limitations are set for tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities, and for donations made to eligible sponsors for all other projects. The annual limitation is set at $8 million for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28), F.S., and $4 million annually for all other projects. Conforming changes are also made by eliminating the requirement that OTTED reserve 80 percent of $10 million of available tax credits and 70 percent of available credits in excess of $10 million for businesses that contribute to home ownership opportunities for low-income and very-low-income households for the first 6 months of each fiscal year. This section also eliminates the provisions that allow tax credits that are unused by either the home ownership or all other projects to be used for any project after the first six months of the state fiscal year.

Section 13 amends s. 253.034, F.S., to provide that a local government may request that state lands be specifically surplused to provide affordable housing. In addition, this section provides that state lands that are surplused to a local government for affordable housing must be disposed of under the provisions of the newly created s. 125.379, F.S., or s. 166.0451, F.S.

Section 14 amends s. 295.16, F.S., to allow veterans to be exempt from paying building license or permit fees to any county or municipality for wheelchair accessibility improvements made upon a mobile home, when certain criteria are met. The bill increases the type of residences eligible for the permit fee exemption in s. 295.16, F.S to include any dwelling they own. This provision will enable a larger population of eligible, disabled veterans to take advantage of the existing fee exemption, reducing the costs that they are obligated to pay in order to make their homes wheelchair accessible.

Section 15 amends s. 380.06, F.S., to provide an increase from 5 percent or 50 units to 15 percent or 100 units in the threshold for defining substantial deviation when at least 20 percent of the increase in the number of dwelling units is dedicated to the construction of workforce housing units. “Workforce housing” is defined to mean housing that is affordable to a person who earns less than 120 percent of the area median income. A development of regional impact (DRI) is defined in existing law to mean “any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.” As DRIs often are developed over a series of years, the law provides a certain threshold below which the project may be modified without triggering additional DRI review. Activities which exceed the threshold are considered to be a substantial deviation of the development order authorizing the development.

Section 16 amends s. 380.0651, F.S., (developments of regional impact) to provide for an increase in the applicable guidelines for residential development by 20 percent if at least 15 percent of the units will be dedicated to workforce housing. The term “workforce housing” is defined to mean affordable to a person who earns less than 120 percent of area median income.

Section 17 amends s. 420.0004, F.S., to create a definition for “extremely low income persons”. Such a person is defined as a person or family whose annual household income does not exceed

30 percent of median annual adjusted gross income for households within the state. Florida Housing Finance Corporation is authorized to adjust this amount annually by rule to provide that in lower income counties the extremely low income may exceed 30 percent of AMI and that in higher income counties extremely low income may be less than 30 percent of AMI.

Section 18 amends s. 420.503, F.S., to revise the definition of "farmworker" to reference the corresponding federal definition.[15] Incorporating the federal definition is intended to maximize opportunities for the use of federal funds for eligible housing initiatives.

Section 19 amends s. 420.507, F.S., which governs the operation of certain programs administered by Florida Housing Finance Corporation. With regard to the State Apartment Incentive Loan (SAIL) program, the bill amends this section to allow:

- pro-rated interest based on the number of units provided for persons transitioning out of homelessness;
- reduced interest rates for loans to sponsors of projects targeting certain populations; and
- loans in excess of 25 percent of project cost and to allow forgiveness of loans, both contingent on provision of units for extremely low income (ELI) families.

These changes will allow Florida Housing Finance Corporation to better address the needs of persons who have the lowest incomes. This section also amends certain provisions relating to the Homeownership Assistance Program (HAP). The bill would allow loans to developers for property acquisition and to provide financing for homes. Presently, these funds are earmarked only for home construction. The Florida Housing Finance Corporation reports that these funds will be put to use much more quickly and with less bureaucracy if this change is enacted.

The bill also authorizes Florida Housing Finance Corporation to establish subsidiary business entities and to adopt rules allowing it to intervene, negotiate terms, or undertake other actions that it deems to further program goals or avoid default on a program loan. Additionally, Florida Housing Finance Corporation is authorized require periodic reporting of certain data for housing financed through its programs. Finally, the Florida Housing Finance Corporation is authorized to adopt emergency rules for purposes of administering funds appropriated for disaster recovery following a declaration of state of emergency.

Section 20 amends s. 420.5087, F.S., which governs the SAIL program. This section increases the threshold for large counties from 500,000 to 825,000, to maintain the existing county classification by large, medium, and small groups for purposes of SAIL funding distributions. In addition, the bill lowers the required match for Elderly Housing Community Loans from 15 percent to 5 percent to make those funds more readily available to applicants. The bill allows

[15] 7 CFR 3560.11 defines a *domestic farm laborer* as a person who, consistent with the requirements in Sec. 3560.576(b)(2), receives a substantial portion of his or her income from farm labor employment (not self-employed) in the United States, Puerto Rico, or the Virgin Islands and either is a citizen of the United States or resides in the United States, Puerto Rico or the Virgin Islands after being legally admitted for permanent residence. This definition may include the immediate family members residing with such a person.

SAIL loans to be made coterminous with superior mortgages which have terms in excess of 15 years.

The bill also amends this section to allow Florida Housing Finance Corporation to waive loan-to-value requirements for projects which serve extremely low income families. Similarly, this section is amended to delete obsolete provisions, and to create a new section which makes provision of units for the extremely low income a scored item in the competitive application process. Finally, the bill clarifies Florida Housing Finance Corporation's authority to allow a sale or transfer of a project and to negotiate terms on sale, transfer, or refinancing of a loan (conforms to changes implemented to s. 420.507, F.S.).

Section 21 amends s. 420.5088, F.S., relating to the Florida Homeownership Assistance Program (HAP). The bill amends this section to raise the income limit served by the program from 80 percent to 120 percent of AMI, to include more moderate-income families who need homeownership assistance. This increase in the income threshold will align with the limit applicable to the SHIP program. In addition, the bill increases the amount of available assistance from 25 percent to 35 percent of purchase price, to reflect recent market conditions.

Currently, this section mandates that 30 percent of the homes in single family developments financed through HAP be sold to individuals earning 50 percent of the average median income or less. Historically, very few families earning 50 percent of the average median income or less can support a mortgage especially with the rising sale price of homes in Florida. The bill amends this section to increase the cap from 50 percent to 65 percent. Finally, existing language which requires a reservation of available funds for 9 months is repealed. The Florida Housing Finance Corporation indicated that experience has shown that the primary effect of the limitations imposed by this provision has been to delay distribution of funds, and has had no positive effect on the HAP.

Section 22 amends s. 420.9075, F.S., to allow local governments to utilize federal data in setting limits of housing purchased through SHIP. Currently, local governments rely on an independent study to determine area median purchase prices which translates into calculating the sales price or value limits of new and existing housing that can be purchased using funds from SHIP. The bill allows local governments to use average purchase price limits established by the United States Department of Treasury as an alternative to relying on an independent study of area median purchase prices. This will allow local governments to have more tools available to adapt to market conditions and most effectively use state housing resources. Further, low and moderate income citizens buying a home will have more flexibility on the price of home they purchase.

Section 23 creates s. 420.9077, F.S., which creates *the Community Workforce Housing Innovation Program* within SHIP to primarily serve families of essential service personnel in high cost counties, whose family incomes do not exceed 140 percent of AMI.

Program Eligibility – This program targets persons in need of affordable housing who provide essential services, such as education, law enforcement, public safety, health care, and other occupations defined as essential services within the annual local housing assistance plan as per s. 420.9072, F.S., in households with income levels up to 140 percent of AMI, adjusted for family size. Additionally, funds are targeted to assist projects in high-cost counties, which include those counties where the median purchase price of a single family home is above the state median purchase price of a single family home. The Florida Housing Finance Corporation is directed to prioritize projects in counties with the highest real estate cost burdens for housing, including those counties designated as areas of critical state concern, and those counties with the highest average median price of single family homes.

The bill also directs the Florida Housing Finance Corporation to prioritize program funds to those projects that include substantial local involvement, which means a contribution at least 15 percent of the project value, from public entities, such as municipalities, counties, school districts, special districts and other units of local government, or private sector entities. Additionally, the bill prioritizes the housing elements of innovative projects that include new construction or rehabilitation of existing housing, mixed income or commercial and housing mixed use elements. The bill stipulates that funds available under the program may be used for manufactured housing constructed after June 1994.

Program Priorities and Incentives – The bill provides that projects will be given priority for funding, based on the local government making the following incentives available, as needed to ensure the financial viability, successful development and maintenance of these housing developments:

- Expedited approval of development orders and development permits,
- Reduction of impact fees by 50 percent, waiver of impact fees, or alternative method of fee payment,
- Increased density up to 16 units per acre or higher, except in coastal high hazard areas,
- Reserved infrastructure capacity in the local comprehensive plan,
- Allowance of additional housing units in residential zoning districts,
- Reduction of open space and set back requirements,
- Allowance of zero-lot-line configurations,
- Reduction of traffic concurrency requirements by up to 25 percent,
- Priority eligibility for local transportation infrastructure funding by metropolitan planning organizations,
- Allowance of mixed-use developments within the projects,
- Inclusion of strategies for maintaining perpetual affordability, and
- Inclusion of tax increment financing.

Project Selection Criteria – Florida Housing Finance Corporation is directed to establish selection criteria by rule or by means of requests for proposals. Funding must be based on demonstrated financial need of the project. To be eligible to receive funding under this program a county must: (1) be defined as a high cost county, or (2) submit to Florida Housing Finance Corporation a community workforce housing strategy, consistent with s. 420.9075, F.S., as a supplement to the established local housing assistance plan. This supplemental community workforce housing strategy must include: a community-wide assessment of the need for workforce housing for essential services employees and other critical personnel; the collaborative process used by the county to plan for workforce housing; and a description of how its distribution will be used.

A minimum of 60 percent of the housing provided by a county under this program must be set aside for households whose family members are employed in areas deemed essential public service, such as educators, health care, and other areas defined by the county in its strategy.

Finally, the bill stipulates that funding for this program is separate from the appropriation for SHIP, and may be awarded to the extent appropriated. The program is repealed effective June 30, 2009.

Section 24 amends s. 420.9079, F.S., to authorize Florida Housing Finance Corporation to request one-quarter of one percent of the appropriation for SHIP and the newly created Community Workforce Housing Innovation Program for purposes of compliance-monitoring.

Section 25 amends s. 624.5105, F.S., to revise the allocation of the current $12 million in tax credits authorized for the Community Contribution Tax Program. Separate annual limitations are set for tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities, and for donations made to eligible sponsors for all other projects. The annual limitation is set at $8 million for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28), F.S., and $4 million annually for all other projects. Conforming changes are also made by eliminating the requirement that OTTED reserve 80 percent of $10 million of available tax credits and 70 percent of available credits in excess of $10 million for businesses that contribute to home ownership opportunities for low-income and very-low-income households for the first 6 months of each fiscal year.

Section 26 amends s. 1001.42, F.S., to authorize school boards to provide affordable housing for teachers and other instructional personnel.

Section 27 directs the Department of Community Affairs to develop a model residential density bonus ordinance that may be used by local governments to increase the availability of affordable housing in the state.

Section 28 provides an undesignated appropriation from the Local Government Housing Trust Fund for purposes of funding workforce housing assistance for moderate income persons in high-cost counties. Specifically, this appropriation is to be distributed to certain counties and eligible municipalities implementing the SHIP program in which the median home purchase price of a single family is above the state median sales price of a single-family home, and for the benefit of moderate-income persons who earn up to 140 percent of the median income.

The bill provides that this funding is separate and distinct from the current SHIP funding distribution method contained in ss. 420.9072 and 420.9073, F.S. Additionally, this funding is separate from any appropriation provided for the *Community Workforce Housing Innovation Program* established in the newly created 420.9077, F.S. (section 23 of the bill). The Florida Housing Finance Corporation is directed to develop rules governing the distribution of these funds. Florida Housing Finance Corporation is also authorized to retain one-quarter of one percent of the annual appropriation to monitor compliance.

Section 29 reenacts s. 161.05301(1), F.S., for purposes of incorporating amendments enacted to s. 201.15, F.S.

Section 30 reenacts s. 161.091, F.S., for purposes of incorporating amendments enacted to s. 201.15, F.S.

Section 31 reenacts s. 370.0603(3), F.S., for purposes of incorporating amendments enacted to s. 201.15, F.S.

Section 32 reenacts s. 420.5092(5) and (6), F.S., for purposes of incorporating amendments enacted to s. 201.15, F.S.

Section 33 reenacts s. 420.9073, F.S., for purposes of incorporating amendments enacted to s. 201.15, F.S.

Section 34 reenacts s. 1013.64, F.S., for purposes of incorporating amendments enacted to s. 201.15, F.S.

Section 35 reenacts s. 1013.738, F.S., for purposes of incorporating amendments enacted to s. 201.15, F.S.

Section 36 reenacts s. 163.31771, F.S., for purposes of incorporating amendments enacted to s. 420.0004, F.S.

Section 37 reenacts s. 196.1978, F.S., for purposes of incorporating amendments enacted to s. 420.0004, F.S.

Section 38 amends s. 212.08, F.S., to change the allocation of the current $12 million in tax credits authorized for the Community Contribution Tax Program. Separate annual limitations are set for tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities, and for donations made to eligible sponsors for all other projects. The annual limitation is set at $8 million for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28), F.S., and $4 million annually for all other projects. This provision is conforming to changes enacted elsewhere in the bill.

Section 39 reenacts s. 420.503(19), F.S., for purposes of incorporating amendments enacted to s. 420.5087, F.S.

Section 40 reenacts s. 420.5061, F.S., for purposes of incorporating amendments enacted to s. 420.5088, F.S.

Section 41 reenacts s. 420.9071(25), F.S., for purposes of incorporating amendments enacted to s. 420.9075, F.S.

Section 42 reenacts s. 723.061, F.S., for purposes of incorporating amendments enacted to s. 723.083, F.S.

Section 43 repeals s. 420.37, F.S. This section specifies additional powers of the Florida Housing Finance Corporation relative to the Low-income Emergency Home Repair Program. According to Florida Housing Finance Corporation, this section is unnecessary as this program is administered by the Department of Community Affairs pursuant to s. 420.36, F.S. The bill also repeals 420.530, F.S., which relates to an obsolete housing pilot loan program.

Section 44 amends s. 723.083, F.S., relating to the removal of mobile home owners. This section currently prohibits any governmental entity from approving an application for rezoning which would result in the removal or relocation of mobile home owners residing in a mobile home park without first determining that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners. The bill amends this section to provide that if a governmental entity determines that adequate mobile home parks or other suitable facilities do not exist in the area, mobile home parks are a permittable use in all land use categories, except those designated as preservation or conservation lands.

Section 45 implements certain provisions of the Governor’s Hurricane Preparedness, Response, and Recovery recommendations. The bill implements the Housing Retrofit Program to provide grants to homeowners (includes site-built and mobile homes) for improvements that increase the protection of homes built prior to the implementation of the Florida Building Code. This program would prioritize funds for low income homes in windborne debris regions. Eligible improvements include shutters, roof reinforcement, and improvements to roof/wall attachments.

Section 46 authorizes Florida Housing Finance Corporation to provide funds to eligible entities for affordable housing recovery in those areas of the state which sustained housing damage due to hurricanes during 2004 and 2005. Florida Housing Finance Corporation is directed to utilize data provided by FEMA to assist in its allocation of funds to local jurisdictions. Subject to an appropriation, funds are to be provided for the Hurricane Housing Recovery Program, the Farmworker Housing Recovery and the Special Housing Assistance and Development Programs, and the Rental Recovery Loan Program. Florida Housing Finance Corporation is directed to provide technical and training assistance, and adopt emergency rules pursuant to s. 120.54, F.S. This section of the bill implements provisions of the Governor’s Hurricane Preparedness, Response, and Recovery recommendations.

Section 47 authorizes an undesignated appropriation from the Local Government Housing Trust Fund to Florida Housing Finance Corporation for the purpose of assisting in the production of housing for extremely low income individuals during 2006-2007.

Section 48 provides that except as otherwise expressly provided, the act shall take effect July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The bill would broaden the existing building permit fee waiver for totally and permanently disabled veterans who make their homes wheelchair accessible.

B. Private Sector Impact:

The bill implements numerous changes to the state's affordable housing programs which are intended to increase the availability of safe and affordable housing through financial and regulatory incentives. Many of these provisions are intended to address the specific housing needs of extremely-low (below 30 percent AMI) and moderate income (up to 140 percent AMI) Floridians. Presently, the overall fiscal impact of these provisions on the private sector is indeterminate.

The bill would increase the number of homestead property owners who are eligible to defer all or a portion of their ad valorem taxes and non-ad valorem assessments. Similarly, the bill reduces the maximum interest rate applicable to deferred taxes and assessments. The number of additional individuals who would elect to utilize the deferral option is unknown.

C. Government Sector Impact:

State Government - The bill authorizes the expenditure of funds for various affordable housing initiatives. Similarly, the bill eliminates the $243 million cap on the distribution of documentary stamp tax revenues to the State Housing Trust Fund and the Local Government Housing Trust Fund, which is set to take effect on July 1, 2007. The bill also allows for the issuance of Everglades Restoration bonds on a parity basis with Florida Forever bonds, strengthening the credit for those bonds. Presently, the bill does not contain any additional appropriation of funds.

There is no government sector fiscal impact associated with changes proposed to the Community Contribution Tax Credit Program since the bill only reallocates the tax credits among types of projects. Administration of the program by OTTED should be simplified under the provisions of the bill.

The Department of Community Affairs would likely incur costs associated with the development of the model residential density bonus ordinance, however, the cost to the department are presently unknown.

The bill increases the annual distribution of documentary stamp tax revenues for funding for the Century Commission from $250,000 to $870,000 through the redistribution of existing funds.

Local Government - The fiscal impact of the veteran/building permit provision on local government revenues is indeterminate. However, the impact is expected to be minimal. The impact on revenues is indeterminate since it is unknown exactly how many eligible veterans would use this benefit.

Local governments may incur additional costs associated with the implementation of the proposed surplus lands provisions of the bill. However, s. 253.034, F.S., currently requires local governments to prepare the inventory referenced in the bill.

The tax deferral provision contained in the bill could impact the revenue stream of local governments in two ways. First, it will limit the short term cash flow the local governments would receive from the property taxes deferred on the property. Second, it will increase the total overall amount of revenue the local government will receive on the property because the deferred amount will accrue interest during the period of deferral. The amount of each effect could not be adequately estimated at the time of analysis because there is no method of determining how many property owners would avail themselves of this option or the amount of taxes and other assessments that would be deferred.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Some of the delegations of rulemaking authority in the bill appear to lack sufficient standards and guidelines. Section 20 of the bill authorizes the Florida Housing Finance Corporation to establish subsidiary business entities, which may in turn “make rules” necessary to conduct business and carry out the purposes of the subsection, but the rulemaking delegation contains no standards. Such a standardless grant of rulemaking gives the entities overly broad discretion.

Another provision in section 20 of the bill would allow the corporation to enact emergency rules without the procedural protections provided by the Florida or United States Constitutions.

VIII. Summary of Amendments:

Barcode 342308 by Governmental Oversight and Productivity:
Deletes certain provisions relating to the assessment of affordable housing property for purposes of ad valorem taxation. Revises the rule-making authority of the Florida Housing Finance Corporation. Deletes the provision removing the cap on the distribution of documentary stamp revenues to housing trust funds scheduled to take effect July 1, 2007. Clarifies the authority of school boards to provide housing assistance to employees. Deletes provisions relating to the Hurricane Residential Retrofit/Hardening grant program. Deletes provisions relating to the Community Contribution Tax Program. (WITH TITLE AMENDMENT)