The Florida Senate

Issue Brief 2010-309 *December 2009*

Committee on Community Affairs

AGENCY SUNSET REVIEW OF THE DEPARTMENT OF COMMUNITY AFFAIRS

Statement of the Issue

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

Discussion

Background

Sections 11.901-11.920, F.S., are known as the Florida Government Accountability Act. Under this act, most state agencies and their respective advisory committees are subject to a "sunset" review process to determine whether the agency should be retained, modified, or abolished.

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

- Agency performance measures;
- The agency complaint process;
- Public participation in making agency rules and decisions;
- Compliance with state purchasing goals and programs for specified businesses;
- Compliance with statutory objectives for each program and activity;
- Program overlap or duplication with other agencies;
- Less restrictive or alternative methods of service delivery;
- Agency actions to correct deficiencies and implement recommendations of legislative and federal audit entities;
- The process by which an agency actively measures quality and efficiency of services it provides to the public;
- Compliance with public records and public meetings requirements;
- Alternative program delivery options, such as privatization, outsourcing, or insourcing;
- Agency recommendations to improve program operations, reduce costs, or reduce duplication;
- The effect of federal intervention or loss of federal funds if the agency, program, or activity is abolished;
- Agency advisory committees;
- Agency programs or functions that are performed without specific statutory authority; and
- Other information requested by the Legislature.

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

In year two of the review and based on the agency submissions, the OPPAGA studies, and public input, the Joint Legislative Sunset Committee and the legislative sunset review committees will:

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

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

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

Evaluation Method

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

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

Guidelines for Agency Advisory Committees[2] include:

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

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

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

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

Corporation. In addition, the brief will provide recommendations on the abolition, continuation, or reorganization of the Department, the division, and the corporation.

Department of Community Affairs

Mission and Agency Structure

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

Section 20.18, F.S., creates the Department of Community Affairs[3] and provides that the head of the Department is the Secretary of Community Affairs who is appointed by the Governor and confirmed by the Senate. The Department is designated by law as the state's land planning agency,[4] and is divided into the Division of Community Planning, the Division of Housing and Community Development, and the Division of Emergency Management.[5]

Section 20.18(2), F.S., provides that the Division of Emergency Management is a separate budget entity and is not subject to control, supervision or direction by the Department of Community Affairs in any manner.[6] The division director is appointed by the Governor, serves at the pleasure of the Governor, and is the agency head of the division for all purposes. Professional, technological, and administrative services are provided by the Department under a service agreement executed by the Department and the division. For FY 2009-10, the division has 136 full-time equivalent employees (FTEs), a trust fund budget of $367 million (mostly federal funds), and no general revenue appropriation.

Similarly, s. 420.504, F.S., creates the Florida Housing Finance Corporation as a public corporation and a public body within the Department of Community Affairs. The corporation is designated as a separate budget entity and is not subject to control, supervision or direction by the Department in any manner, including personnel, purchasing, real estate transactions, and budgetary matters. Corporation employees are not state employees. For FY 2009-10, the corporation has 127 full-time employees, 6 part-time employees, a trust fund budget of $30 million (state documentary stamp tax revenues), and no general revenue appropriation.

Department of Community Affairs
Appropriations for the FYs 2006-07 through 2009-10

Between FY 2006-07 and FY 2008-09, total appropriations for the Department fell by more than $217 million from $400.7 million to $183.6 million. This can be attributed to a $14 million reduction in general revenue appropriations, as well as a $203 million reduction in trust funds. General revenue as a percentage of the Department's budget was no more than 3.5 percent of the total funds appropriated in FY 2008-09. However, during the January 2009 Special Session, the Department's budget was further reduced by $62.6 million.[7]

Under the federal Housing and Economic Recovery Act of 2008 (HERA), Florida was awarded more than $541 million to implement the Neighborhood Stabilization Program administered by the U. S. Department of Housing and Urban Development (HUD). Of the total awarded, $450 million was distributed directly to 48 entitlement counties and cities under the Community Development Block Grant Program. The Department was authorized to receive the remaining $91 million to provide grants to the non-entitlement communities under the Small Cities

[3] *See* organizational chart of the Department of Community Affairs, marked as Appendix A to this document.
[4] Section 163.3164 (20), F.S.
[5] Section 20.18, F.S.
[6] However, DCA does provide DEM's administrative services and is involved in contracts, audits, legal compliance, and finance and accounting transactions, including all payments, associated with hundreds of millions of dollars of DEM grants to local communities.
[7] SB 2-A, Special Appropriations Act, enacted during the 2009A Special Session (ch. 2009-1, Laws of Florida). This amount does not include cuts to the Division of Emergency Management or the Florida Housing Finance Corporation as those entities, though housed within the department, are separate budget entities and not included in the department's spending authority.

Community Development Block Grant Program and was granted spending authority in chapter 2009-1, Laws of Florida.

In FY 2009-10, total appropriations to the Department rose to a total of $373 million due to federal appropriations under the American Recovery and Reinvestment Act of 2009 (ARRA). General revenue as a percentage of the Department's budget is approximately 2.2 percent of the total funds appropriated in FY 2009-10.

Although the Department has a number of programs, the following four federal programs comprise $348 million or 93 percent of the Department's $373 million 2009-2010 budget:

- U.S. Department of Housing and Urban Development Small Cities Community Block Development Grant Program - $33 million annual appropriation and an additional $7.45 million under the ARRA.
- U.S. Department of Health and Human Services Community Services Block Grant Program - $17.9 million annual appropriation and an additional $29.1 million under ARRA.
- U.S. Department of Health and Human Services Low-Income Home Energy Assistance Program - $90.9 million annual appropriation.
- U.S. Department of Energy Weatherization Assistance Program - $11.7 million annual appropriation and an additional $158 million under ARRA.[8]

DCA Appropriations for 2007-08 Fiscal Year

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

Source: Senate Transportation & Economic Development Appropriations Committee

DCA Appropriations for 2008-09 Fiscal Year

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

Source: Senate Transportation & Economic Development Appropriations Committee

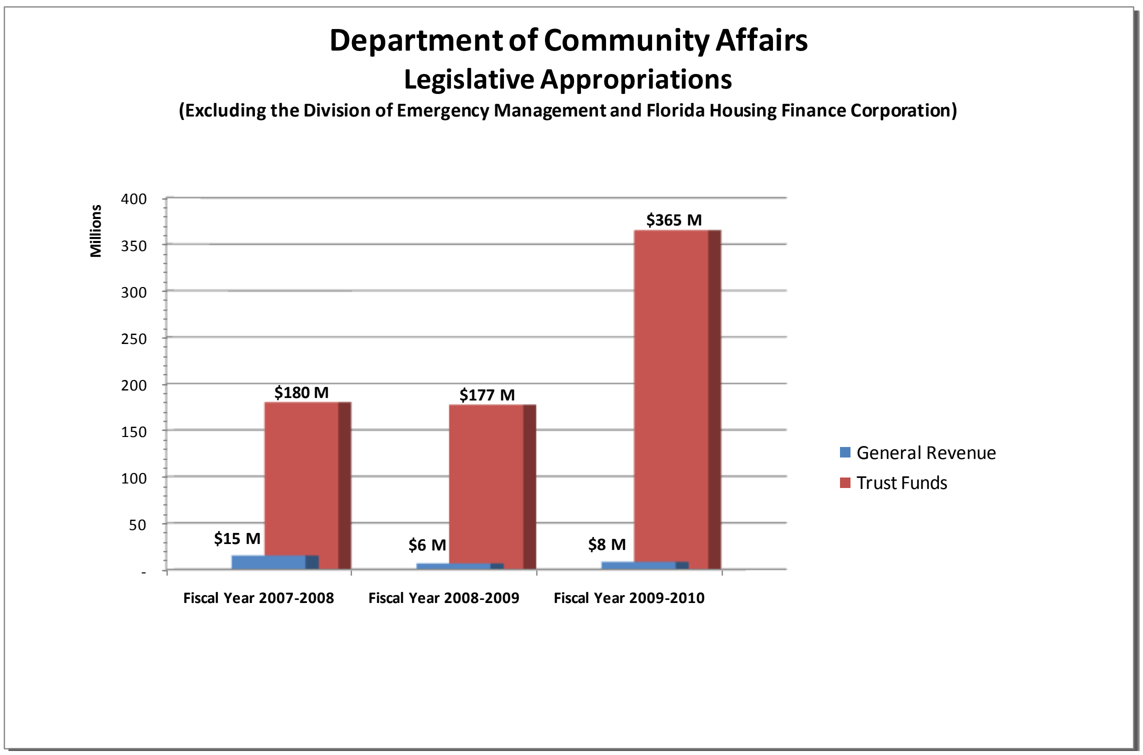
[8] The state was granted a total of $176 million in weatherization assistance funding under ARRA, but the DCA's Division of Housing and Community Planning submitted a budget amendment to the Legislative Budget Commission in April 2009, seeking and receiving approval to spend $18 million of the total award in FY 2008-09 to assist families with income below 200 percent of the federal poverty level with home repairs/retrofits up to $6,500 per home. (*See* budget amendment EOG number B2009-0651 from the April 2009 LBC meeting packet *available at* http://www.leg.state.fl.us/data/committees/joint/jclb/Meetings/041509.pdf.)

DCA Appropriations for 2009-10 Fiscal Year

	Fiscal Year 2009-10			
	FTE	**Gen Rev**	**Trust Funds**	**Total Funds**
Office of the Secretary	77.00	1,192,335	6,226,418	7,418,753
Division of Community Planning	61.00	6,438,873	1,197,320	7,636,193
Division of Housing and Community Development	72.00	641,816	357,515,323	358,157,139
Total	210.00	8,273,024	364,939,061	373,212,085

Source: Senate Transportation & Economic Development Appropriations Committee

DCA 3-Year Appropriations by Fund Type



Source: Senate Transportation & Economic Development Appropriations Committee

Division of Community Planning – Responsibilities and Programs

The Division of Community Planning works with local governments to implement and administer Florida's growth management laws and associated programs and services, and also provides local governments with technical support to meet local growth challenges and to help plan their future. The division works closely with local governments, other state and regional agencies, stakeholders, and the general public to ensure sound comprehensive planning and management of growth across the state. The division's primary responsibilities include implementation of the programs required by the Legislature under the Local Government Comprehensive Planning and Land Development Regulation Act[9] and the Environmental Land and Water Management Act.[10]

The Local Government Comprehensive Planning and Land Development Regulation Act requires that all of Florida's 67 counties and 410 municipalities, as well as one special district, adopt and implement a comprehensive plan that guides future growth and development. All land development regulations and development permits must be consistent with the adopted comprehensive plan, and each adopted plan must meet

[9] Chapter 163, Part II, F.S.
[10] Sections 380.012, 380.021, 380.031, 380.04, 380.05, 380.06, 380.07, and 380.08, F.S.

certain procedural and substantive standards.[11] The act is broad in scope and provides policy direction on land use and development, coastal zone management, conservation, housing, water supply, transportation, public schools, other public facilities and capital improvements, and intergovernmental coordination. Comprehensive plans and plan amendments have a significant impact on the quality of life for Floridians. Plans provide direction for a full range of development, from very large scale development, to new airports and electrical generation facilities, to coastal development, and to rural economic opportunities.

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

Local Government Comprehensive Plan Review (s. 163.3184, F.S.) - Generally, local governments may adopt amendments to their comprehensive plans twice per year, although there are more than 30 exemptions to the twice-per-year limitation. The division reviews these plan amendments and determines whether they comply with statutory requirements. Comprehensive plan amendments initially presented as a proposed amendment package may include multiple individual amendments, to be reviewed within a prescribed time period by local, regional, and state agencies. Those external agencies (Regional Planning Councils, Water Management Districts, the Departments of State, Transportation, Environmental Protection, Agriculture and Consumer Services, and the Fish and Wildlife Conservation Commission) provide comments to the division which prepares a unified report on the consistency of the package with legal requirements. In 2008, the Department approved 559 amendments which could allow up to 195,427 new dwelling units and almost 200 million square feet of non-residential development.

After receipt of the Objections, Recommendations, and Comments Report, the local government must decide whether to adopt, adopt with revisions, or not adopt the proposed amendment. Should the amendment be adopted, it is submitted to the division for a compliance determination which is announced through the publication of a notice of intent published in a local newspaper of general circulation. The compliance determination may be challenged by affected parties. If a plan amendment is challenged by the Department of Community Affairs or by an affected party, the matter is referred to the state's Division of Administrative Hearings for a legal proceeding.[12]

Performance measure and Unit Cost Data:[13]

- Plan amendments packages reviewed
  - 2007-2008 Approved Standard: 610
    - 2007-2008 Actual Standard: 1,185
  - 2008-2009 Approved Standard: 610
    - 2008-2009 Actual Standard: 1,416
  - 2009-2010 Approved Standard: 610
  - 2010-2011 Requested Standard: 650

- Comprehensive Plan Review/ Plan Amendment Packages Reviewed
  - FY 2007-08
    - 1,185 Units Reviewed
    - $3,379 Unit Cost
    - $4,003,565 Total Expenditures
  - FY 2008-09

[11] Section 163.3202, F.S.
[12] Section 163.3184, F.S.
[13] All 2007-2008 performance measures and unit cost data for the Department of Community Affairs and the Florida Building Commission are contained in the Department of Community Affairs Long-Range Program Plan, September 2008, *available at* http://www.dca.state.fl.us/publications/LRPP.pdf. All 2008-2009 performance measures and unit cost data for the Department of Community Affairs and the Florida Building Commission are contained in the Department of Community Affairs Long-Range Program Plan, September 2009, *available at* http://floridafiscalportal.state.fl.us/Documents.aspx?FY=2011&EXID=28&AGY=5200&DOCID=543&DisplayAgy=Y.

- 1,416 Units Reviewed
- $3,536 Unit Cost
- $5,007,081 Total Expenditures

Issues:

- The 2009 Legislature enacted ch. 2009-96, Laws of Florida, (SB 360), also known as the "Community Renewal Act," to stimulate economic development, promote development in urban areas, and provide for affordable housing. The legislation made revisions to urban service areas, created a definition for dense urban land areas, changed the deadline for the CIE financial feasibility element and the implementation of the associated penalty to December 1, 2011, and provided that certain areas be designated as transportation concurrency exception areas.[14] In addition, cities that qualify as dense urban land areas; urban service areas adopted into a local comprehensive plan and located within a county qualifying as a dense urban land area; and counties with certain populations that qualify as dense urban land areas and that do not have urban service areas designated in a comprehensive plan, are authorized to exempt development from the DRI process. Three issues have developed as a result of the enactment of the legislation:
  - A lawsuit has been filed in the Leon County Circuit Court by the City of Weston and other local governments against the state charging that SB 360 violates the single-subject rule[15] and constitutes an improperly funded mandate on local government.[16] The Attorney General, on behalf of the state, has filed a motion to dismiss contending that the state is not the proper party but that the Department is.
  - The legislation designated "dense urban land areas" as transportation concurrency exception areas. The intent of the Legislature was that these areas would become automatic transportation concurrency exception areas but that the local governments would be able to develop their own transportation programs using their home rule powers. The Department of Community Affairs has interpreted the bill as requiring local governments to revise their comprehensive plans and local ordinances before transportation concurrency exception areas are applicable. Though inconsistent with the legislative intent, the Department's interpretation appears legally defensible.
  - The legislation required that the Department and the Department of Transportation continue a mobility fee study with a goal of developing a mobility fee that can replace the existing transportation concurrency system in those areas where transportation concurrency exception areas have not been designated. The legislation requires that the mobility fee be fairly distributed among the governmental entities responsible for maintaining impacted roadways. Both Departments have used stakeholder group meetings to develop the "Florida Mobility Fee Study, Final Report-Phase I," dated June 30, 2009.[17] The Departments and the stakeholder group are scheduled to meet again in November 2009. The final joint report to be prepared from the study is due to the Legislature by December 1, 2009, and is required to contain legislative recommendations and a mobility fee implementation plan.
- During the 2009 Regular Session, the Florida Senate considered CS/SB 1786, relating to comprehensive planning, which established a $200 fee for each proposed plan amendment submitted to the Department for review. The fee was to be deposited into the Operating Trust Fund within the Department and was expected to generate $1.4 million statewide. The ability of a local government to pass the fee on to the entity requesting the plan amendment was not limited by the provisions of the bill. The plan review fee was not adopted into law and is expected to be revisited in the 2010 Regular Session.

Evaluation and Appraisal Reports (s. 163.3191, F.S.) - Section 163.3191, F.S., requires local governments to periodically assess the effectiveness of their comprehensive plans and complete major plan updates to reflect

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[14] The Department notices in its "Long-Range Program Plan" that eight counties and 238 cities were designated as "dense urban land areas."
[15] FLA. CONST. art. III, § 6.
[16] FLA. CONST. art. VII, § 18.
[17] CENTER FOR URBAN TRANSPORTATION PLANNING, UNIVERSITY OF SOUTH FLORIDA, FLORIDA MOBILITY FEE STUDY, *available at* http://www.dca.state.fl.us/fdcp/dcp/MobilityFees/Files/FLMobilityFeeStudyFinal.pdf.

changing conditions and new legislative requirements. Every seven years, local governments must submit Evaluation and Appraisal Reports (EAR) to the division prior to undertaking the required periodic revision of their plans.[18] Based on this evaluation, the report suggests how the plan should be revised to better address community objectives, changing conditions and trends affecting the community, and changes in state requirements. The Department has established a phased schedule for the adoption of EARs, and municipalities are scheduled to adopt their EARs approximately 12 to 18 months after the county in which they are located adopts its EAR. This phasing allows municipalities to benefit from updated information that may be collected and analyzed by the county, particularly regarding major community-wide planning issues. Technical assistance and training to local governments on the EAR process and the review of reports and their related plan amendments comprise a major workload for division staff. The Department has completed a series of 13 workshops to discuss the preparation of the second round of Evaluation and Appraisal Reports. The workshops were scheduled approximately 18 months before the due dates for clusters of counties whose reports were due within a few months of each other. Each workshop included a presentation by Department staff on the content requirements and the process for preparing the report, as well as other presentations related to issues of regional importance. The last workshop in this series was held in Gainesville on February 27, 2008, for Alachua, Bradford, Flagler, Gilchrist, Lafayette, Madison, Marion, Putnam, Sumter, Suwannee and Union counties and their municipalities. The next round of Evaluation and Appraisal Reports are due to be adopted between 2010 and 2018, according to a schedule the Department has posted on its website.[19] To help local governments prepare for this next round, the Department is conducting a series of 16 workshops. This past summer, workshops were held in Hollywood and Ft. Myers, and the next workshop is scheduled to be held in West Palm Beach in April, 2010.

Performance Measure and Unit Cost Data:

- Local government EARs reviewed
  - 2007-2008 Approved Measure: 75
    - 2007-2008 Actual Performance: 126
  - 2008-2009 Approved Measure: 75
    - 2008-2009 Actual Performance: 103
  - 2009-2010 Approved Standard: 75
  - 2010-2011 Requested Standard: 80

- Evaluation and Appraisal Report/ Local Government Evaluations and Appraisal Reports (EARs) reviewed.
  - FY 2007-08
    - 126 Units Reviewed
    - $3,404 Unit Cost
    - $428,954 total Expenditures
  - FY 2008-09
    - 103 Units Reviewed
    - $3,247 Unit Cost
    - $334,441 Total Expenditures

Issue:

- The cost to small counties for EAR updates.
  - The Florida Association of Counties may pursue legislation to provide relief to small counties where there has been no growth or population loss by changing the 7-year update requirement to a 12-year requirement.

Alternative State Review Process Pilot Program (s. 163.32465, F.S.) - The 2007 Legislature created s. 163.32465, F.S., which establishes the Alternative State Review Process Pilot Program. The pilot program is intended to provide an expedited process for comprehensive plan amendment review for the following local

[18] Section 163.3191, F.S.

[19] The schedule may be viewed at http://www.dca.state.fl.us/fdcp/dcp/EAR/files/ThirdRoundEar.pdf (last visited October 14, 2009).

governments: Pinellas and Broward counties, their municipalities, and the Cities of Jacksonville, Miami, Tampa and Hialeah. Municipalities within pilot counties may elect not to participate in the pilot program by a super majority vote of the governing body. The Alternative State Review Process Pilot Project is similar to the standard comprehensive plan review process except that time frames are accelerated, there is no unified state report, and the Department does not publish a notice of intent. OPPAGA was required to submit a report to the Legislature and the Governor by December 1, 2008, regarding reduced state oversight of local comprehensive planning in urban areas.

The OPPAGA report[20] issued in November 2008 contains four recommendations for the Legislature to consider:

- Extending the pilot program and reevaluating it after 2010.
- Expanding the pilot program to include cities and counties that are built out.
- Expanding the pilot program to include highly urbanized cities and counties based on population sizes and densities.
- Expanding the expedited review process to all local governments.

Optional Sector Planning Program (s. 163.3245, F.S.) - The optional sector plan process was established as an alternative to the development of regional impact process, pursuant to s. 163.3245, F.S. Optional Sector Plans address large geographic areas (5,000 acres or more) and must be approved as a comprehensive plan amendment. The optional sector plan has two levels: a conceptual, long-term build-out overlay and detailed specific area plans. The program is limited to five pilot projects.[21] There are currently three adopted Optional Sector Plans and one active proposal.

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

In 2007, the Department created a Rural Land Stewardship Area Interagency Technical Advisory Team to provide technical assistance in all aspects of the Rural Land Stewardship Area Program. The Technical Advisory Team advises the Department about local government initiatives and planning considerations for Rural Land Stewardship Areas.

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

The Department conducted another rule development workshop on March 16, 2009, and published proposed rules on May 22, 2009. In June 2009, the Florida Chamber, the Florida Land Council, and the Florida Farm Bureau filed a rule challenge alleging that portions of the Department's proposed rules 9J-5.026 and 9J-11.023 and existing rule 9J-5.003(80) were an invalid exercise of delegated legislative authority because:

- The proposed rules enlarged, modified, or contravened the specific provisions of the law, were vague and failed to establish adequate standards for agency decisions, and were arbitrary.

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[20] OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY, EXPEDITED STATE REVIEW PILOT PROGRAM WORKING WELL BUT FACES CHALLENGES, Report No. 08-62 *available at* http://www.oppaga.state.fl.us/Summary.aspx?reportNum=08-62.

[21] Section 163.3245, F.S.

- The existing rule contravened the specific provisions of the law implemented.

On September 14, 2009, an administrative law judge found the proposed and existing rules to be valid and dismissed the challenge. The Rural Land Stewardship rule is now in effect.

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

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

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

Developments of Regional Impact Program (DRI) (s. 380.06, F.S.) and Florida Quality Development Program (s. 380.061, F.S.) - Under s. 380.06, F.S., a DRI is a development that has a substantial effect upon the health, safety, or welfare of citizens of more than one county due to its character, magnitude, or location. The statute provides procedural and substantive standards for large scale developments, and the division implements the program through administrative rules, is responsible for determinations of DRI status, and reviews adopted development orders. Should a development order fail to meet standards, the division may file an appeal to the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission. There are more than 1,100 approved DRIs in Florida.[22] Additionally, The Florida Quality Developments Program was created as an alternative to the DRI program. The intent of the Florida Quality Development Program is to encourage development that has been thoughtfully planned, protects natural resources, and pays for its infrastructure. Developments that meet the Florida Quality Development standards should receive an expeditious and timely review, and may use the Florida Quality Development certification mark for promotional, informational or advertising purposes. To date, 18 developments have been designated as Florida Quality Developments.

Performance Measure and Unit Cost Data:

- Developments of Regional Impact Managed

[22] *See* DIVISION OF COMMUNITY PLANNING, DEPARTMENT OF COMMUNITY AFFAIRS, DEVELOPMENTS OF REGIONAL IMPACT *available at* http://www.dca.state.fl.us/fdcp/DCP/DRIFQD/Files/dripres.pdf.

    - 2007-2008 Approved Standard: 365
        - 2007-2008 Actual Performance: 305
    - 2008-2009 Requested Standard: 365
        - 2008-2009 Actual Performance: 226
    - 2009-2010 Approved Standard: 365
    - 2010-2011 Requested Standard: 365

- Developments of Regional Impacts Review and Monitoring/ Developments of Regional Impacts Managed
    - FY 2007-08
        - 305 Units Reviewed
        - $2,757 Unit Cost
        - $840,960 Total Expenditures
    - FY 2008-09
        - 226
        - $2,798 Unit Cost
        - $632,365 Total Expenditures

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

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

Performance Measure and Unit Cost Data:

- Area of Critical State Concern Development Orders reviewed and Final Orders Issued.
    - 2007-2008 Approved Standard: 1,315
        - 2007-2008 Actual Performance: 330
    - 2008-2009 Approved Standard: 1,315
        - 2008-2009 Actual Performance: 390
    - 2009-2010 Approved Standard: 1,325
    - 2010-2011 Requested Standard: 300

- Areas of Critical State Concern Review/Technical Assistance/Areas of Critical State Concern Development Orders Reviewed and Final Orders Issued
    - FY 2007-08.
        - 330 Units Reviewed
        - $433 Unit Cost
        - $142,984 Total Expenditures
    - FY 2008-09
        - 390 Units Reviewed
        - $467 Unit Cost
        - $187,231 Total Expenditures

Issues:

- Section 380.0552(4), F.S., directs the Department of Community Affairs to make an annual recommendation to the Administration Commission regarding the removal of the ACSC designation from the Florida Keys. In order to remove the designation, the Department must determine that all local land development regulations and comprehensive plans, and the administration of such plans are: (1) adequate to protect the Florida Keys area and continue to carry out the legislative intent incorporated in s. 380.0552(2), F.S., and (2) in compliance with the Principles for Guiding Development incorporated in s. 380.0552(7), F.S. For 2008, the Department's recommendation to the commission was not to remove the ACSC designation. The Department's annual written report to the Administration Commission on the removal of the ACSC designation from the Florida Keys was due November 1, 2009.

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

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

The Department is in the third year of a 3-year planning initiative to help coastal and inland local governments prepare post-disaster redevelopment plans. The Department was assisted by a 19-member focus group consisting of representatives of: federal, state, and local governments; state universities; and Florida planning organizations. The initiative was conducted in three phases over a 2-year period. During Phase I, the focus group developed draft guidelines for post-disaster redevelopment planning based on information obtained through a review of relevant literature and a survey of Florida local governments. In Phase II, the group worked with the pilot communities of Hillsborough County, Nassau County, Polk County, Manatee County, Sarasota County, and Panama City to test the effectiveness of the model plan. In Phase III, the focus group analyzed the guidelines and incorporated findings into a final Post-Disaster Redevelopment Planning Guidebook, which is expected to be available for distribution in the first quarter of 2010. The initiative was funded by NOAA through the Florida Coastal Management Program at the Department of Environmental Protection, and through a Hazard Mitigation Grant awarded by FEMA and administered by the Division of Emergency Management.

Springs Protection Program (s. 369.40, F.S.) - There are more than 700 springs in Florida, in 39 counties, of which 33 are first magnitude springs. As Florida's population grows, these springs and ground water face increasing pressure from and encroachment by development. Growth brings an inevitable increase in water use and extensive land use changes which can alter water quality and quantity. In recognition of the pressures faced by Florida's springs, the Florida Springs Task Force recommended strategies in 1999 for the protection and restoration of Florida's springs. Building on the work of the Task Force, the division, in conjunction with the Department of Environmental Protection, prepared a best practices manual to help local governments, developers, landowners, and citizens learn about innovative and sensible planning strategies and tools they can use to protect Florida's springs. The manual focuses on how local comprehensive plans can be used as an effective vehicle to help guide growth and development and identifies specific best management practices for managing development impacts to assist in springs' protection. The division has also developed Implementation Guidelines to provide further assistance to local governments toward protection of Florida's springs.

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

Waterfronts Florida Partnership Program (s. 342.201, F.S.) - The Waterfronts Florida Partnership Program helps participating communities revitalize, renew, and promote interest in their waterfront district. Waterfront revitalization targets environmental resource protection, public access, retention of viable traditional waterfront economies, and hazard mitigation. The Waterfronts Florida Partnership Program is funded in part by the Florida Department of Environmental Protection, Florida Coastal Management Program, and the National Oceanic and Atmospheric Administration. Between 1997 and 2009, the Department designated 23 Waterfronts Florida Partnership Communities, each of which received or will receive two years of technical and financial assistance. After the two year period, there is no financial assistance but the Department may continue to provide technical assistance to the waterfront partnership communities. Since 1997, a total of 23 communities have been designated Waterfronts Florida Partnership Communities. Most recently in June 2009, two new communities were designated for the 2009-2011 cycle: the City of Ft. Myers and the community of Millville in Panama City.

Issue:

- Coordination of the Waterfronts Florida Partnership Program with the Stan Mayfield Working Waterfronts Program created by the 2008 Legislature and the implementation of a constitutional amendment providing for the classification of working waterfront property, which is ongoing.

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

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

Transportation Planning (s. 163.3182, F.S.) – The Department provides specialized assistance to local planning staff to improve coordination on land use and transportation to help local governments address the impacts of proposed development. The Department assists the Florida Department of Transportation (FDOT) by completing reviews of long range transportation proposals, Metropolitan Planning Agency plans, and five-year work plans. In addition, the Department participates in the FDOT's Efficient Transportation Decision-Making Program.

Technical Assistance (Growth Management) - The division provides technical assistance to a range of local governments and regional planning councils. One method of assisting is the preparation of best practices guides. Topics addressed in the best practices include springs protection, transportation concurrency, planning toolkit, marina siting, and firewise communities. The division also provides direct technical assistance grants to local governments, when funding is available, to meet statutory requirements such as updating the Capital Improvements Element of the local comprehensive plan. During FY 2007-08, the major priority was to assist rural jurisdictions and funding was made available to the majority of Florida's rural counties. The division also provided financial support for regional visioning, including MyRegion.org, One Bay, Heartland 2060, and Sustainable Emerald Coast. In FY 2008-09, the Legislature appropriated approximately $1 million to the

Department to provide for technical assistance to local governments and school boards.[23] Recently, the Department has begun to rely more heavily on webinars and videoconferencing as a cost effective way of educating local governments, interested parties, and stakeholder groups on planning requirements and policy developments. These events have generally been well attended.

Performance Measures and Unit Cost Data:

- Technical assistance initiatives taken.
    - 2007-2008 Approved Standard: 350
        - 2007-2008 Actual Performance: 1,370
    - 2008-2009 Approved Standard: 350
        - 2008-2009 Actual Performance: 740
    - 2009-2010 Approved Standard: 350
    - 2010-2011 Requested Standard: 450

- Technical Assistance for Local Government Planning Initiatives/ Technical Assistance Initiatives Undertaken
    - FY 2007-08.
        - 1,370 Units Reviewed
        - $6,483 Unit Cost
        - $8,881,984 Total Expenditures
    - FY 2008-09
        - 740 Units Reviewed
        - $3,427 Unit Cost
        - $2,536,309 Total Expenditures

- Front Porch Florida Technical Assistance Initiatives taken.
    - 2007-2008 Approved Standard: 10
        - 2007-2008 Actual Performance: 0
    - 2008-2009 Approved Standard: 10
        - 2008-2009 Actual Performance: 0
    - 2009-2010 Approved Standard: 10
    - 2010-2011 Requested Standard: None – delete measure

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

Issue:

- The cost to the Department for review of proposed revived declarations to ensure compliance with statutory requirements.

[23] A representative of the Association of Counties reports that the Department of Community Affairs is doing a good job of providing its members, particularly the smaller counties with less resources, with technical assistance considering the limited funding of the Department. A representative of the League of Cities indicates that since 2005 the Department has given no major technical assistance. However, in the review of comprehensive plans the Department has provided guidance to the local governments on how to best comply with the state comprehensive planning guidelines.

Division of Housing and Community Development – Responsibilities and Programs

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

In July 2008, the U.S. Congress enacted and President Bush signed into law the Housing and Economic Recovery Act of 2008 (HERA) to address, in part, the housing crisis caused by failures in the lending industry which resulted in foreclosures and delinquencies. Title III of the Act appropriated about $4 billion of grant funds under the Neighborhood Stabilization Program for states and local governments to purchase and redevelop abandoned or foreclosed properties. The U.S. Department of Housing and Urban Development (HUD) was directed to target areas with the greatest needs based on the extent of foreclosures, subprime mortgages, and loan delinquencies and defaults. The federal notice released on September 30, 2008, contained an allocation methodology, program requirements, application requirements, and waivers which could be granted. **Florida received a total of $541 million of which $91 million was distributed by the Department and $450 million was distributed directly by the federal government to the Community Development Block Grant direct entitlement communities.**

To further stimulate the economy, in February 2009, the U.S. Congress enacted and President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA), to provide more than $780 billion in benefits across the county. Florida was awarded the following allocations:

- From the U.S. Department of Housing and Urban Development - a total of $385.3 million:
  - Public Housing Capital Fund - $85.5 million
  - Homelessness Prevention Fund - $65.3 million
  - Community Development Block Grant - $42.7 million
  - Project Based Rental Assistance - $89.9 million

- From the U.S. Department of Energy:
  - $176 million for the Weatherization Assistance Program

- From the U.S. Department of Health and Human Services
  - $29.1 million to the Community Services Block Grant Program

- From the U.S. Department of the Treasury:
  - $101 million under the Tax Credit Assistance Program (TCAP)
  - $579 million under the Tax Credit Exchange Program (TCEP)

Florida Communities Trust (ss. 380.507-380.511, F.S.) - The Florida Communities Trust (FCT) is a land acquisition program that provides funding to local governments or nonprofit environmental organizations in the acquisition of community-based projects, urban open spaces, parks, and greenways that will help implement local comprehensive plans. The FCT is funded under the Florida Forever Program created in s. 259.105, F.S., and is directed to emphasize the funding of redevelopment projects in low-income areas and other disadvantaged communities, as well as projects that provide areas for direct water access and water-dependent facilities that are open to the public and that offer public access by vessels to the waters of the state. Other project categories include urban waterfront restoration projects, site reservation, and urban greenways and open spaces. The FCT is encouraged to consider alternative methods of acquisition such as conservation easements, life estates, leases, and leaseback arrangements. Where lands are acquired by a nonprofit organization using funds allocated under the FCT, the lands must permanently remain in public use through mechanisms such as a reversion of title to local or state government or a conservation easement.

The Florida Communities Trust Program has acquired 41,783 acres in partnership with local governments. [24] The average per acre price paid by the Trust is $12,785 per acre for a total state expenditure of over $534 million. When local government matching funds are included, the average price per acre is $24,617, and the total dollars expended exceeded $1 billion.[25]

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

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

Performance Measures and Unit Cost Data:

- Project applications processed.
    - 2007-2008 Approved Standard: 120
        - 2007-2008 Actual Performance: 118
    - 2008-2009 Approved Standard: 120
        - 2008-2009 Actual Performance: 91
    - 2009-2010 Approved Standard: 120
    - 2010-2011 Requested Standard: 80

- Acres acquired.
    - 2007-2008 Approved Standard: 4,844
        - 2007-2008 Actual Performance: 5,469
    - 2008-2009 Approved Standard: 4,844
        - 2008-2009 Actual Performance: 5,383
    - 2009-2010 Approved Standard: 4,844
    - 2010-2011 Requested Standard: 4,844

- Land Acquisition Project Grant Application Review.
    - FY 2007-08
        - 118 Applications Reviewed
        - $4,973 Unit Cost
        - $586,796 Total Expenditures
    - FY 2008-09
        - 91 Applications Reviewed
        - $6,076 Unit Cost
        - $552,897 Total Expenditures

- Land Acquisition Grant Award Administration.
    - FY 2007-08

[24] *See also* ENVIRONMENTAL PRESERVATION COMMITTEE, FLORIDA SENATE, Interim Project Report 2006-120, LAND ACQUISITION – FLORIDA FOREVER MID-TERM REVIEW, *available at* http://www.flsenate.gov/data/Publications/2006/Senate/reports/interim_reports/pdf/2006-120eplong.pdf (giving an overview of the Florida Forever Program).

[25] The Florida Forever Program has, in total, acquired more than 638,600 acres of land with $2.62 billion for an average per acre expenditure of $4,102.

        - 5,469 Grant Awards Administered
        - $191 Unit Cost
        - $1,043,192 Total Expenditures
    - FY 2008-09
        - 5,383 Grant Awards Administered
        - $169 Unit Cost
        - $908,093 Unit Cost

Issues:

- In recent years, the Legislature, the Department, and the Department of Environmental Protection (DEP) have discussed the feasibility of merging the FCT program and the DEP's Florida Recreation Development Assistance Program (FRDAP) which are similar, although not identical, in responsibilities.
- In FY 2009-10, the Florida Forever program, which has an outstanding bond capacity of $250 million, was not appropriated debt service for a new bond issue. The state's land acquisition programs must spend down existing funds while waiting for approval from the State Board of Administration to sell down some of the outstanding bond capacity. The DEP "Florida Forever Status Reports" indicate that as of August 31, 2009, the FCT has approximately $57 million in approved project commitments to acquire 2,621 acres; and another $15.6 million in anticipated acquisitions for approximately 584 acres. The total available Florida Forever cash balance for all entities as of August 31, 2009, was approximately $84 million, and outstanding approved commitments and anticipated acquisitions across all entities are more than $370 million. The bond market is a victim of the economic downturn but the Division of State Lands at the DEP anticipates a bond issue when market conditions improve.

Stan Mayfield Working Waterfronts Program (s. 380.5105, F.S.) - The Stan Mayfield Working Waterfronts grant program was created by the 2008 Legislature for the purpose of funding projects that restore and preserve working waterfronts. The Legislature provided that 2.5 percent of the bond proceeds received from the sale of Florida Forever bonds be used by the Florida Communities Trust to acquire land directly used for the commercial harvest of marine organisms or saltwater products by state-licensed commercial fishermen, aquaculturists, or business entities, including piers, wharves, docks, or other facilities operated to provide waterfront access. Bond proceeds may also be used to acquire land used for exhibitions, demonstrations, educational venues, civic events, and other purposes that promote and educate the public about the economic, cultural, and historical heritage of Florida's traditional waterfronts. The current level of funding provides $7.5 million annually to the program.

Performance Measures:

- To be developed.

Issues:

- Coordination of the Stan Mayfield Working Waterfronts Program with the Department's Waterfronts Florida Partnership Program.
- Working Waterfront funding of $7.5 million for fiscal year 2008-2009 was obligated to four projects. No funding was provided in fiscal year 2009-2010.
- The Stan Mayfield Working Waterfront Program may need revisions to accommodate the implementation of amendment 6 to the State Constitution, providing for a working waterfront use classification with respect to property taxes. The amendment, which was adopted in the November 2008 General Election, was not implemented by the Legislature during the 2009 Regular Session and will be revisited during the 2010 Regular Session as part of an interim project conducted by the Senate's Finance & Tax Committee.[26]

Florida Building Commission (s. 553.74, F.S.) - The Florida Building Commission (Commission) is comprised of 25 members who are appointed by the Governor and confirmed by the Senate. The Commission's purpose is to

[26] COMMITTEE ON FINANCE AND TAX, FLORIDA SENATE, Interim Project Report 2010-115, ASSESSMENT OF WORKING WATERFRONT PROPERTY-IMPLEMENTATION OF CONSTITUTIONAL AMENDMENT APPROVED IN NOVEMBER 2008, October 2009, *available at* http://flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-115ft.pdf.

develop, adopt, and interpret the state's unified building code known as the Florida Building Code pursuant to the requirements of chapter 553, parts I through VIII, F.S., and rules adopted by the Commission and contained in Chapter 9B of the Florida Administrative Code.

Specific powers of the Commission include studying the Florida Building Code and other laws relating to the design and construction or public or private buildings, facilities or structures, making recommendations to the Florida Commission on Human Relations regarding rules relating to accessibility for persons with disabilities, and participating with the Florida Fire Code Advisory Council to provide assistance and recommendations relating to firesafety code interpretation. Other responsibilities include the administration of the Product Evaluation and Approval Program to enhance the effectiveness of the Florida Building Code by providing a higher standard of practice for product evaluation and ensuring uniform and consistent enforcement statewide.

The Accessibility Advisory Council consists of seven members, appointed by the Secretary, who represent persons with disabilities. The Council is responsible for making recommendations to the Florida Building Commission on waivers or modifications to only the Florida-specific sections of the Florida Accessibility Code for Building Construction, based on unnecessary, unreasonable, or extreme hardship. Council meetings are held in conjunction with the Florida Building Commission.

The Commission is funded from a one-half cent per square foot surcharge assessed on under-roof floor space permitted by local governments. For additions, renovations, and alterations, the surcharge is assessed against the square footage being added, renovated, or altered. Each local government collecting the surcharge is authorized to retain up to 5 percent of the amount collected for costs associated with collecting and remitting the surcharge. All other collections are deposited in the Department's Operating Trust Fund to be used for the administration and purposes of the Florida Building Code.

In FY 2004-05, the per square foot surcharge generated $4.9 million in revenues and $3.1 million was appropriated to fund the Florida Building Commission. In FY 2005-06, $5.2 million in per square foot surcharge revenues was collected and $3.5 million was appropriated to fund the Florida Building Commission. Beginning in FY 2006-07, the per square foot surcharge revenues began falling, and in FY 2008-09, surcharge revenue collections totaled $1.82 million.

FBC Appropriations for FY 2007-08

	FTE	Gen Rev	Trust Funds	Total Funds
Operating Trust Fund				
Salaries & Benefits			$1,038,358	$1,038,358
Other Personal Services			$2,251,255	$2,251,255
Expenses			$349,723	$349,723
Operating Capital Outlay			$2,000	$2,000
Contracted Services			$12,165	$12,165
Risk Management Insurance			$43,347	$43,347
DMS Human Resource Services			$7,236	$7,236
DOH Transfer			$294,414	$294,414
Grants & Donations Trust Fund				
Other Personal Services			$190,000	$190,000
TOTAL	17.00		$4,188,498	$4,188,498

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

FBC Appropriations for FY 2008-09

	FTE	Gen Rev	Trust Funds	Total Funds
Operating Trust Fund				
Salaries & Benefits			$1,044,278	$1,044,278
Other Personal Services			$1,501,255	$1,501,255
Expenses			$339,133	$339,133
Operating Capital Outlay			$2,000	$2,000
DOH Transfer			$282,637	$282,637
Contracted Services			$12,165	$12,165
Risk Management Insurance			$29,908	$29,908
DMS Human Resource Services			$7,137	$7,137
Grants & Donations Trust Fund				
Other Personal Services			$140,000	$140,000
TOTAL	17.00		$3,358,513	$3,358,513

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

FBC Appropriations for Fiscal Year 2009-2010

	FTE	Gen Rev	Trust Funds	Total Funds
Operating Trust Fund				
Salaries & Benefits			$952,730	$952,730
Other Personal Services			$1,393,413	$1,393,413
Expenses			$325,568	$325,568
Operating Capital Outlay			$1,920	$1,920
Contracted Services			$11,678	$11,678
Risk Management Insurance			$29,908	$29,908
DMS Human Resource Services			$7,137	$7,137
DOH Transfer			$282,637	$282,637
TOTAL	15.00		$3,004,991	$3,004,991

Source: 2009-10 General Appropriations Act (ch. 2009-81, L.O.F.)

Issues:

- FY 2008-09, funding generated from the per-square foot under-roof floor space assessment used by the Department to support the Florida Building Commission was re-directed to the Grants & Donations Trust Fund to be used to provide civil legal assistance, support regional planning councils, and fund the Front Porch Florida Initiative.
- The Florida Building Commission is expecting a funding deficit due to the downturn in the housing market which, in turn, is reducing the number of permits issued by local governments for new construction, renovations, additions, and rehabilitation projects. The Florida Building Commission is implementing cost-saving measures such as reductions in meetings, and teleconferencing where appropriate.

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

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

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

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

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

Performance Measures and Unit Cost Data:

- People trained and served by the Florida Building Code.
  - 2007-2008 Approved Standard: 10,000
    - 2007-2008 Actual Performance: 3,122
  - 2008-2009 Approved Standard: 10,000
    - 2008-2009 Actual Performance: 2,588
  - 2009-2010 Approved Standard: 10,000
  - 2010-2011 Requested Standard: None – delete measure

- Florida Building Code amendments promulgated.
  - 2007-2008 Approved Standard: 1,000
    - 2007-2008 Actual Performance: 270
  - 2008-2009 Approved Standard: 1,000
    - 2008-2009 Actual Performance: 313
  - 2009-2010 Approved Standard: 1,000

    - 2010-2011 Requested Standard: 350

- Building Code Industry Training/People Trained/Served.
    - FY 2007-08:
        - 3,122 Units Trained/Served
        - $1,334 Unit Cost
        - $4,164,078 Total Expenditures
    - FY 2008-09:
        - 2,588 Units Trained/Served
        - $649 Unit Cost
        - $1,678,971 Total Expenditures

- Code Promulgation/Code Amendments Promulgated.
    - FY 2007-08:
        - 270 Units Promulgated
        - $4,284 Unit Cost
        - $1,156,688 Total Expenditures
    - FY 2008-09:
        - 313 Units Promulgated
        - $2,518 Unit Cost
        - $788,166 Total Expenditures

The commission, with input from stakeholders, developed cost effectiveness test criteria to be applied to justify requirements for increased residential building energy efficiency. Rule 9B-13.0071, Florida Administrative Code took effect on August 17, 2009. As required by s. 553.9061, F.S., the commission continues work towards increasing thermal energy efficiency standards. The adoption of glitch amendments to the 2007 Florida Building Code and revisions to the thermal energy efficiency standards rule implement the commission’s strategy to increase thermal energy efficiency by 15 percent as required by Executive Order 07-127, issued by Governor Crist in July 2007. The commission’s Energy Code Workgroup and the Energy Technical Advisory Committee continue to work towards achieving an additional 5 percent increase in energy efficiencies for the 2010 Florida Building Code to meet the 20 percent increase required under ch. 2008-191, Laws of Florida.

In August 2009, the commission published notice of its intent to amend Rule 9B-72.100, relating to Approval of Product Evaluation Entities, to add new entities to the approved product evaluation entities list. In September 2009, the commission voted to proceed with rule adoption for the amended rule and determined that once the amended rule was approved, additional amendments relating to the evaluation of the criteria for approval of evaluation entities will be developed.

Manufactured Building Program (ss. 553.35-553.42, F.S.) - The Department’s Manufactured Building Program regulates the construction of buildings manufactured in such a manner that all portions cannot be readily inspected at the installation site without disassembly or destruction. Manufactured buildings include residential, commercial, storage sheds, portable classrooms, guard shacks, communications buildings, kiosks, gazeboes, ice vending machines, and ATMs (if occupiable). The Department uses third-party plan review and inspection agencies to ensure the structures built in a manufacturing facility are in compliance with the Florida Building Code.

Until the 2008 Regular Session, the Florida Building Commission was authorized to establish a fee schedule to pay the cost to the Department to administer and enforce building code requirements for manufactured buildings and building modules. The 2008 Legislature enacted chapter 2008-191, Laws of Florida, and provided the Department with the authority to establish the fee schedule in amounts necessary to cover the cost of administering and enforcing manufactured building requirements.

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

Performance Measures and Unit Cost Data:

- Permits issued for manufactured buildings.
    - 2007-2008 Approved Standard: 36,000
        - 2007-2008 Actual Performance: 33,716
    - 2008-2009 Approved Standard: 36,000
        - 2008-2009 Actual Performance: 20.272
    - 2009-2010 Approved Standard: 36,000
    - 2010-2011 Requested Standard: 36,000

Regulation of Manufactured Buildings/Permits Issued for Manufactured Buildings.

- FY 2007-08:
    - 33,716 Units Issued
    - $14 Unit Cost
    - $462,675 Total Expenditures
- FY 2008-09:
    - 20,272 Units Issued
    - $14 Unit Cost
    - $280.327 Total Expenditures

Issue:

- The Department amended Rule 9B-1.020, Schedule of Fees, to comply with the provisions of ch.2008-191, Laws of Florida. Effective September 13, 2009, insignia fees for manufactured building were increased as follows:
    - Factory-built schools fee was increased from $15 to $20.
    - Storage sheds fee (less than 720 square feet in area) was increased from $5 to $7.
    - Manufactured buildings fee, including storage sheds over 720 feet, was increased from $50 to $60.

Front Porch Florida Initiative (not created in statute, no rules) - Front Porch Florida, an initiative established by Governor Bush and modeled after the Front Porch Alliance of Indianapolis, began in 1999 with the designation of six communities as "Front Porch" communities through a competitive application process. The initiative, which was not created in statute, began as part of the budget process and was to be administered by the Office of Urban Opportunity (OUO) created within the Office of Tourism, Trade, and Economic Development in the Executive Office of the Governor. Section 14.2015, F.S., provided that the purpose of the OUO was to administer the Front Porch Florida Initiative, a comprehensive, community-based, urban core redevelopment program to empower urban core residents to craft solutions to the unique challenge of each designated community. In 2004, the OUO was moved to the Division of Housing and Community Development but its mission remained unchanged.[27]

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

Performance Measures and Unit Cost Data:

- Number of communities designated as Front Porch Florida communities

[27] Section 20.18(6), F.S., provides that the purpose of the Office of Urban Opportunity in the Department of Community Affairs is to administer the Front Porch Florida Initiative. This administrative authority does not create a Front Porch Florida Program nor does it provide the department with rulemaking authority over the Initiative.

- FY 2008-09
    - 20 Communities Designated
    - $65,144 Unit Cost
    - $1,302,888 Total Expenditures

Issues:

- The annual appropriation for the Front Porch Florida Initiative has decreased steadily since the Initiative was implemented in 1999. In the first year, the annual appropriation was $5.4 million, in FY 2008-09, the appropriation was $1.75 million.
- Because of a lack of statutory guidance, the OUO has developed a process for awarding grants to the designated communities on a competitive basis based on criteria not developed in rule because the Department does not have rulemaking authority for the initiative.
- No statutory accountability requirements are in place to govern the reimbursement procedures for grant recipients, although the Department notes that state procurement guidelines are followed.
- Since 1999, only 20 communities in Florida have been designated as “Front Porch” communities and 19 of those are active at this time.
- This year, the Front Porch Initiative was not funded and the Department reports that the Revitalization Councils responsible for implementing the Neighborhood Action Plan by the Front Porch communities are being encouraged to seek funding elsewhere to complete projects.

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

For FY 2008-09, Florida received $27.7 million to fund a variety of projects which aid in the development of viable communities by providing decent housing, a suitable living environment and expanding economic opportunities, primarily for persons of low and moderate incomes. Awards are made in five categories: commercial revitalization (downtown improvements), economic development (job creation), housing rehabilitation, planning grants, and neighborhood revitalization (infrastructure). Examples of activities that are eligible for Small Cities Community Development Block Grant funding include rehabilitation/preservation of housing, water and sewer improvements, street improvements, economic development activities, downtown revitalization, parks and recreation, and drainage improvements.

Performance Measures and Unit Cost Data:

- Jobs created or retained.
    - 2007-2008 Approved Standard: 140
        - 2007-2008 Actual Performance: 307
    - 2008-2009 Approved Standard: 140
        - 2008-2009 Actual Performance: 378
    - 2009-2010 Approved Standard: 140
    - 2010-2011 Requested Standard: 140

- Local Job Creation and Retention/Jobs Created/Retained.
    - FY 2007-08
        - 307 Units Created/Retained
        - $1,330 Unit Cost
        - $408,353 Total Expenditures
    - FY 2008-09
        - 378 Units Created/Retained

    - $1,359 Unit Cost
    - $513,784 Total Expenditures

- Housing units rehabilitated or replaced.
  - 2007-2008 Approved Standard: 718
    - 2007-2008 Actual Performance: 986
  - 2008-2009 Approved Standard: 718
    - 2008-2009 Actual Performance: 258
  - 2009-2010 Approved Standard: 718
  - 2010-2011 Requested Standard: 146

- Affordable Housing/Housing Units Rehabilitated or Replaced.
  - FY 2007-08
    - 986 Units Rehabilitated or Replaced
    - $1,006 Unit Cost
    - $991,715 Total Expenditures
  - FY 2008-09
    - 258 Units Rehabilitated or Replaced
    - $3,522 Unit Cost
    - $908,877 Total Expenditures

- People trained/served under Small Cities CDBG and Special District programs.
  - 2007-2008 Approved Standard: 535
    - 2007-2008 Actual Performance: 759
  - 2008-2009 Approved Standard: 535 (Small Cities CDBG program only)
    - 2008-2009 Actual Performance: 953
  - 2009-2010 Approved Standard: 535
  - 2010-2011 Requested Standard: Split measure in two with a requested standard of 385 for Special District Program and 450 for Small Cities CDBG.

- Training and Technical Assistance/People Trained/Served.
  - FY 2007-08
    - 759 Units Trained/Served
    - $4,381 Unit Cost
    - $3,325,162 Total Expenditures
  - FY 2008-09
    - 526 Units Trained/Served
    - $570 Unit Cost
    - $299,843 Total Expenditures

- Public facilities built or improved.
  - 2007-2008 Approved Standard: 30
    - 2007-2008 Actual Performance: 42
  - 2008-2009 Approved Standard: 30
    - 2008-2009 Actual Performance: 66
  - 2009-2010 Approved Standard: 30
  - 2010-2011 Requested Standard: 44 as a new measure for number of completed public facilities/infrastructure projects built, replaced, or repaired.

- Public Infrastructure Improvement/Public Facilities Built or Improved.
  - FY 2007-08
    - 42 Units Built or Improved
    - $26,390 Unit Cost
    - $1,108,387 Total Expenditures

- FY 2008-09
  - 66 Units Built or Improved
  - $16,884 Unit Cost
  - $1,302,888 Total Expenditures

2008 and 2009 Federal Stimulus Package

The federal **Housing and Economic Recovery Act of 2008 (HERA)** appropriated $3.92 billion nationwide to provide emergency assistance for the redevelopment of abandoned or foreclosed homes under the Neighborhood Stabilization Program. States were given 18 months to use funds after receipt or the federal government would recapture funding. The use of funds was to be prioritized on targeted areas with the greatest need based on percentages of foreclosures and subprime mortgages.

Florida's allocation of $541 million was split between the Department's Small Cities CDBG Program and the federal CDBG entitlement program. **The Department received $91.1 million for distribution under the Small Cities Program, and the federal government directly distributed $450 million to 48 local governments (entitlement communities).** Eligible uses of funding included the purchase of foreclosed homes, the purchase of land and property including the creation of land banks, demolishing or rehabilitating abandoned properties, and providing down payment and closing cost assistance to persons meeting certain income requirements.

Under the federal **American Recovery and Reinvestment Act of 2009 (ARRA), the Department received an additional $7.5 million to be used to support neighborhood revitalization projects.** The Department will fund 11 applications for "shovel-ready" projects under an action plan approved by HUD on August 13, 2009. A revised action plan was submitted on September 29, 2009, when it was determined that two of the approved projects could not be funded. Local governments receiving awards are: City of Bunnell - Flagler County; City of Coleman- Sumter County; City of Eagle Lake-Polk County; City of Gulf Breeze-Santa Rosa County; City of Live Oak-Suwannee County; City of Madison-Madison County; City of Stuart-Martin County; City of Sebring-Highlands County; City of Trenton-Gilchrist County; Holmes County; and Walton County.

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

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

Issue:

- Under-utilized program – only the City of Key West, the City of Sebring, and the City of Alachua have applied for loans under the program.

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

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

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

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

The federal **Consolidated Security, Disaster Assistance, and Continuing Appropriations Act** (Public Law 110-329) appropriated $6.5 billion to the states for recovery from 2008 disasters. Congress allocated funding to assist in the recovery from federally declared natural disasters which, for Florida, includes Tropical Storm Fay and Hurricanes Gustav and Ike. Funds must be used only for disaster relief, long-term recovery, and restoration of infrastructure, housing and economic revitalization in areas affected by hurricanes, flood, and other natural disasters that occurred in 2008. Florida received a total of $81 billion of which at least $9 million must be used to address affordable rental housing.[28]

The federal guidelines required that states submit an Action Plan to HUD for the full amount of the supplement funding by September 30, 2009. The Department submitted the plan and expects approval very soon.

Community Services Block Grant Program (Rule 9B-22.002 - thru 9B-22.011, F.A.C.) - The federal Community Services Block Grant Program is administered by the U.S. Department of Health and Human Services to provide financial assistance to the states and local communities to reduce poverty and re-vitalize low-income communities. Florida's Community Services Block Grant Program is administered by the Department pursuant to the authority provided in s. 163.03, F.S. and rules contained in Chapter 9-B of the Florida Administrative Code. At least 90 percent of the annual federal award is distributed according to the Community Services Block Grant State Plan required under the federal law which must cover at least one fiscal year but not

[28] Congress previously allocated disaster funds to states impacted by 2008 storms. *See* 74 Fed. Reg. 7237 (February 13, 2009) (Florida's allocation was $17 million); 74 Fed. Reg. 41109 (August 14, 2009) (Florida received an additional allocation of $64 million).

more than two fiscal years, and identify purposes such as how the federal allocation will be used and how the needs of young people in low-income communities will be addressed through specific youth development programs.

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

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

The Community Services Block Grant Program was awarded $29.1 million under ARRA for CSBG community services and for state-level benefits enrollment coordination activities. ARRA contained three modifications to the CSBG program. First, the state may only retain 1 percent of all stimulus funds and that 1 percent must be used for benefits enrollment coordination activities relating to identifying and enrolling qualifying individuals and families (under the primary program, states can retain up to 10 percent of funding for state-level administration and they have flexibility as to the use of the funds). Second, ARRA authorizes the states that receive funds to increase the qualifying income level for individual eligibility for services from 125 percent of the poverty guidelines[29] to up to 200 percent for fiscal years 2009 and 2010.[30] Third, the state is not allocated any state administrative funds.

Under the CSBG ARRA allocation, $980 million is for the states; $5 million is for the territories; and $15 million is for training and technical assistance. Of the $15 million, $7.5 million is to be directly awarded to eligible entities and statewide and local organizations and association to provide training and technical assistance on improving program quality, managing information and reporting systems, measuring programs results, and responsiveness to local needs. The remainder is to be used for planning support, monitoring, data collection, performance measurement and reporting, and travel, salaries and benefits.

Performance Measure and Unit Cost Data:

- Households served.
    - 2007-2008 Approved Standard: 136,000
        - 2007-2008 Actual Performance: 161,996
    - 2008-2009 Approved Standard: 136,000
        - 2008-2009 Actual Performance: 207,986
    - 2009-2010 Approved Standard: 136,000
    - 2010-2011 Requested Standard: 136,000

- Community Services/Households Served
    - FY 2007-08
        - 161,996 Units Served
        - $116 Unit Cost

[29] Section 673(2) of the Community Services Block Grant Act defines "poverty line" as the official poverty line defined by the Office of Management and Budget based on the most recent data available from the Bureau of the Census.
[30] *See* U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, AMERICAN RECOVERY AND REINVESTMENT ACT, IMPROVING CHILDREN AND COMMUNITY SERVICES: ADMINISTRATION FOR CHILDREN AND FAMILIES: COMMUNITY SERVICES BLOCK GRANT, *available at* http://www.hhs.gov/recovery/reports/plans/communityservicesblockgrant.pdf.

        - $18,796,597 Total Expenditures
    - FY 2008-09
        - 207,986 Units Served
        - $90 Unit Cost
        - $18,791,286 Total Expenditures

CDBG Neighborhood Stabilization Program[31] (NSP1) - (federal) **-** In July 2008, the U.S. Congress enacted and President Bush signed into law the Housing and Economic Recovery Act of 2008 (HERA) to address, in part, the housing crisis caused by failures in the lending industry which resulted in foreclosures and delinquencies. Title III of the Act appropriated about $4 billion of grant funds under the Neighborhood Stabilization Program for states and local governments to purchase and redevelop abandoned or foreclosed properties. The U.S. Department of Housing and Urban Development (HUD) was directed to target areas with the greatest needs based on the extent of foreclosures, subprime mortgages, and loan delinquencies and defaults. The federal notice released on September 30, 2008, contained an allocation methodology, program requirements; application requirements; and waivers which could be granted.

Florida received more than $541 million in NSP funds of which $450 million was distributed directly by the federal government to 48 entitlement communities. The state was allocated $91 million for distribution by the Department. Funds were targeted to give priority emphasis to areas with the greatest percentage of home foreclosures, areas with the highest percentage of homes financed by a subprime mortgage loan, and areas identified as likely to face a significant rise in foreclosure rates. The state's plan was submitted to HUD on December 1, 2008 and approved in February 2009. The Department and HUD executed an agreement in March 2009.

Under the agreement, 26 communities will receive $65 million from the state distribution with awards ranging from $1.25 million (the state's minimum grant amount) to $11 million. In addition, $23 million in funds for awards falling below the minimum grant amount of $1.25 million are being used to fund the Supplemental Low-Income Allocation which is dedicated to rental housing targeting persons with incomes at or below 50 percent of the area median income. The minimum grant amount is $500,000. The same 26 counties received funding from the regular and supplemental NSP. The Department is authorized to retain $1.1 million for state administration and staffing for four years, and $2 million for training, technical assistance, and monitoring. Finally, the state is creating an incentive-based set-aside using any unobligated or unspent NSP funds recaptured by the state. Grantees who are using NSP funds in a judicious and expeditious manner will be eligible to receive the unobligated or unspent NSP funds.

[31] Also known as NSP1 to distinguish this program from the NSP2 funding provided under the American Recovery and Reinvestment Act of 2009.

HUD & State NSP Funding – HERA
(Contains CDBG and Small Cities Awards)

County	City	HUD[32]	State[33]	State Supplemental[34]
Alachua			$1,411,917	$1,517,321
Bay			$1,615,436	$908,311
Brevard		$5,269,667		
	Melbourne		$1,343,243	$576,948
	Palm Bay	$5,208,104		
	Titusville		$1,625,481	$488,300
Broward		$17,767,589		
	Coral Springs	$3,378,142		
	Davie		$1,715,568	$600,724
	Deerfield Beach	$2,005,699		
	Ft. Lauderdale	$3,700,096		
	Hollywood	$7,534,603		
	Lauderhill	$4,293,288		
	Margate	$2,106,555		
	Miramar	$9,312,658		
	Pembroke Pines	$4,398,575		
	Plantation	$2,016,309		
	Pompano Beach	$4,366,157		
	Sunrise	$3,494,986		

HUD & State NSP Funding – HERA
(Contains CDBG and Small Cities Awards)

County	City	HUD[35]	State[36]	State Supplemental[37]
	Tamarac	$4,772,218		
Charlotte			$5,364,020	$1,423,037
Citrus			$1,478,164	$693,256
Clay			$2,722,894	$915,629
Collier		$7,306,755		
Duval (Jacksonville-Duval)		$26,175,317		
Escambia		$4,565,918		
Flagler				
	Palm Coast		$2,177,980	$486,923

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[32] HUD NSP1 financial data *available at* http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nsp1.cfm (last visited October 7, 2009).
[33] "Florida's Neighborhood Stabilization Program Substantial Amendment," Dec. 1, 2008, Florida Department of Community Affairs, pgs. 6-7.
[34] *Id*. at 8.
[35] HUD NSP1 financial data *available at* http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nsp1.cfm (last visited October 7, 2009).
[36] "Florida's Neighborhood Stabilization Program Substantial Amendment," Dec. 1, 2008, Florida Department of Community Affairs, pgs. 6-7.
[37] *Id*. at 8.

Hernando			$4,299,472	$1,344,912
Hillsborough		$19,132,978		
	Tampa	$13,600,915		
Indian River			$3,598,543	$1,082,282
Lake		$3,136,967		
Lee		$18,243,867		
	Cape Coral	$7,065,484		
	Ft. Myers	$2,297,318		
Leon				
	Tallahassee		$1,693,435	$1,252,235
Manatee		$5,283,122		
	Bradenton		$1,975,077	$601,190
Marion		$6,324,055		
	Ocala		$1,313,887	$429,318
Martin			$2,645,982	$891,481
Miami-Dade		$62,207,200		
	Hialeah	$5,385,046		
	Homestead	$2,887,010		
	Miami	$12,063,702		
	Miami Beach		$1,641,832	$907,719
	Miami Gardens	$6,866,119		
	North Miami	$2,847,089		
Okaloosa			$2,255,252	$1,003,183
Orange		$27,901,773		
	Apopka		$1,547,689	$362,277

HUD & State NSP Funding – HERA
(Contains CDBG and Small Cities Awards)

County	City	HUD[38]	State[39]	State Supplemental[40]
	Orlando	$6,730,263		
Osceola			$11,524,826	$2,566,992
	Kissimmee	$2,371,749		
Palm Beach		$27,700,340		
	Boynton Beach	$2,963,311		
	Delray Beach		$1,351,043	$553,962
	West Palm Beach	$4,349,546		
Pasco		$19,495,805		
Pinellas		$8,063,759		
	Clearwater		$2,034,862	$810,889
	St. Petersburg	$9,498,962		
Polk		$14,586,258		
	Lakeland	$2,005,781		
Santa Rosa			$1,662,215	$703,188
Sarasota		$7,140,861		

[38] HUD NSP1 financial data available at http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nsp1.cfm (last visited October 7, 2009).
[39] "Florida's Neighborhood Stabilization Program Substantial Amendment," Dec. 1, 2008, Florida Department of Community Affairs, pgs. 6-7.
[40] *Id*. at 8.

Seminole		$7,019,514		
St. Johns			$1,761,096	$728,347
St. Lucie			$3,144,510	$840,091
	Port St. Lucie	$13,523,132		
	Ft. Pierce		$1,505,403	$579,993
Volusia		$5,222,831		
	Daytona Beach		$1,668,161	$694,981
	Deltona	$6,635,909		
TOTAL		**$450,223,302**	**$65,077,988**[41]	**$22,963,490**

Low-Income Home Energy Assistance Program (s. 409.508, F.S.) - The federal Low-Income Home Energy Assistance Act (LIHEAP) was enacted in 1981 and provides grants to the states to assist low-income households to pay for home energy. The state's Low-Income Home Energy Assistance Program receives an annual federal award from the U.S. Department of Health and Human Services to provide non-competitive formula-based grants to designated local governments and non-profit agencies to assist eligible households.[42] The amount of the annual award is dependent on annual federal appropriations and may vary greatly from year to year. At the discretion of the President, "contingency" funds may be distributed to meet crisis or emergency situations. Congress may also appropriate additional funds for LIHEAP to address crisis situations, as it did in 2006 after Hurricane Katrina.

The DCA contracts annually with designated local nonprofit organizations and local government agencies to identify, qualify and provide home energy assistance to eligible households. Local agencies also provide energy education to customers, assist the customer in negotiating issues with the energy vendor, make referrals to other community energy assistance providers, and coordinate referrals to the local Weatherization Assistance Program provider. In order to provide additional outreach to elderly households, DCA provides six percent of the federal award to the Florida Department of Elder Affairs. These funds are distributed to local organizations that serve elder households to provide additional outreach and crisis energy assistance to that population. The federal legislation also allows for up to 15 percent of the funds to be used for home energy conservation programs such as the Weatherization Assistance Program.

Once a household is qualified, the local LIHEAP agency pays the energy company (natural gas, propane, electric, etc.) on behalf of eligible households. Priority is to be given to households that include young children, or elderly or handicapped individuals. Limited funding and the scope of the program does not allow for a monthly subsidy to customers. The services provided are primarily crisis assistance and to a lesser extent a once-a-year non-crisis benefit. The average benefit per household is between $350 to $400 per year.

Performance Measure and Unit Cost Data:

- Households served.
  - 2007-2008 Approved Standard: 79,800
    - 2007-2008 Actual Performance: 80,551
  - 2008-2009 Approved Standard: 79,800
    - 2008-2009 Actual Performance: 109,185
  - 2009-2010 Approved Standard: 79,800
  - 2010-2011 Requested Standard: 79,800
- Home Energy Assistance/Weatherization and Utility Assistance/Households Served.
  - FY 2007-08
    - 80,551 Units Served

[41] This total does not include $23 million in the Supplemental NSP Low-Income distribution to all 26 of the jurisdictions receiving the regular state NSP funds, and does not include state administrative fees.

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

        - $334 Unit Cost
        - $26,934,136 Total Expenditures
    - FY 2008-09
        - 109,185 Units Served
        - $611 Unit Cost
        - $66,679,629 Total Expenditures

The Department, in conjunction with the Florida Energy Affordability Coalition, issued a "Report to the Legislature," as required by the CS/HB 697 (ch. 2008-191, Laws of Florida), to address issues relating to the Low-Income Home Energy Assistance Program and the Weatherization Program. The report addressed the following concerns:

- The energy affordability gap among low and moderate income Floridians.
- The expenditure of a larger percentage of income on home energy by low-income households.
- The gap between existing energy assistance and energy affordability.
- The disproportionate numbers of low-income persons living in older, less energy efficient households.
- The need to choose between quality of life and payment of the utility bill for low-income households on a fixed income.

Recommendations in the report included:

- Legislation to require state agencies that provide public subsidies for the development of new or substantially rehabilitated affordable housing to include in the selection criteria a preference for proposals that include energy standards exceeding the requirements of the Florida Building Code in place at the time of the selection.
- Legislation to direct the Florida Energy Office, in collaboration with the Department, the Florida Solar Energy Center, and other public/private partners, to identify the potential for the use of renewable energy initiatives for low-income households, and to develop an implementation plan.
- Require public housing authorities to take the actions necessary to ensure the efficient use of utilities in public and assisted housing.
- Require utilities to include an expanded menu of energy efficiency and conservation products and services authorized by the Weatherization Assistance Program and targeted to low-income households that could be cost-recoverable.
- Legislation to implement a permanent statewide universal service charge billed to all utility customers for funding payment assistance and energy efficiency programs.
- Legislation to earmark abandoned utility dollars for low-income assistance and energy-efficiency programs, and to require a feasibility study to identify a permanent funding source.
- Create a State Energy Affordability Trust Fund.

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

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

From FY 1998-99 thru FY 2002-03, the LEHRP received about $2.5 million in documentary stamp tax revenues annually to fund program needs. Beginning in FY 2003-04, the Legislature began reducing appropriations to the program and in FY 2006-07, no funding was provided. For FY 2007-08, the Department of Financial Services was directed to transfer $1 million from the Insurance Regulatory Trust Fund to the Energy Consumption Trust Fund within the Department to fund the LIEHRP,[43] and in FY 2008-09 and 2009-10, no funds were appropriated.

Issue:

- The Legislature may want to consider repealing a program that hasn't been funded for two years.

Weatherization Assistance Program (s. 163.03 and ss. 409.509-409.5093, F.S.) - Section 163.03(3), F.S., provides the Department with the authority to adopt rules to implement the federal Weatherization Assistance Program funded through the U.S. Department of Energy, and sections 409.509-409.5093, F.S., provide the Department with the authority to implement the Weatherization Assistance Program for low-income residences which is limited to households where the household income is at least 150 percent[44] of the federally established poverty level. For 2009, the federal poverty level for a family of four is $22,050.[45] The Weatherization Assistance Program is funded through the U.S. Department of Energy and receives an annual federal award to serve low-income families by ensuring the installation of materials or measures to improve the thermal efficiency of a residence. The federal appropriation for fiscal year 2008-09 is $6.3 million. Funds are allocated for each county and the two federally recognized Indian Tribes, based on a county's climate zone location within the state average energy costs and based on the county's percentage of residents at or below the federal poverty guidelines.

Under ARRA, the Weatherization Assistance Program was awarded a total of $175.98 million in funding that is available through September, 2012. The award has a program allocation of $145.18 million, and a training and technical assistance allocation of $30.8 million. The ARRA provided that each state would receive 10 percent of the total allocation at the time of the grant award, 40 percent of the allocation on approval of the state's plan by the U.S. Department of Energy; and 50 percent of the allocation when DOE has completed progress reviews. Not more than 10 percent of the total funds awarded can be used for administrative purposes, and of that amount, 5 percent may be used by the Department and 5 percent may be used by the subgrantees. In addition, the DOE authorized the income eligibility threshold for assistance be raised from 150 percent to 200 percent of the poverty income guidelines.

With respect to the training and technical assistance program allocation, the Department will use the funds for on-site monitoring and oversight, training of subgrantees, and outsourcing the various program components. Program components include weatherization inspector training; post inspector training oversight, contractor training, workforce training, client education and program evaluation by the Department in coordination with the DOE. If any of the allocation is unused, it may be used for additional weatherization program operations. Florida was awarded the first half of the total allocation in June 2009.

Performance Measure and Unit Cost Data:

- Total energy saved by recipients of Weatherization Assistance program services.
    - 2007-2008 Approved Standard: 2.8 million MBTUS (Million British Thermal Unit) over 10-year period or 280,000 MBTUS annually.
        - 2007-2008 Actual Performance: 299,523 MBTUS saved.
    - 2008-2009 Approved Standard: 280,000 MBTUS
        - 2008-2009 Actual Performance: 360,481 MBTUS saved.
    - 2009-2010 Approved Standards: 280,000 MBTUS
    - 2010-2011 Requested Standard: 280,000 MBTUS
- Unit Cost Data included in unit cost data for Low-Income Home Energy Assistance Program.

Issue:

- Allocation of weatherization funds and data on expenditures by subgrantees.

[43] Section 7 of Chapter 2007-126, Laws of Florida (My Safe Florida Homes Act).
[44] 42 U.S.C. § 6862(7).
[45] 74 Fed. Reg. 4199-201 (January 23, 2009).

Florida Access to Civil Legal Assistance (ss. 68.094-68.105, F.S.) - The 2002 Legislature enacted Chapter 2002-288, Laws of Florida, to create the "Florida Access to Civil Legal Assistance Act" to establish an administrative framework for the use of public funds to enhance availability of civil legal assistance to eligible persons with an income equal to or below 150 percent[46] of the federal poverty guidelines. The Department was provided with the powers to contract with a statewide not-for-profit organization that provides funding for civil legal assistance to the poor to allocate funds to not-for-profit legal aid organizations. The not-for-profit must be a charitable organization that meets the qualifications of s. 501(c)(3) of the Internal Revenue Code.

The act requires that the contract must provide for distribution of at least 80 percent of the funds appropriated by the Legislature annually by county on a per capita basis using the number of persons with an income equal to or below 125 percent of the federal poverty guidelines. Up to 15 percent of the funds must be distributed annually to statewide and regional not-for-profit legal aid organizations, and up to 5 percent of the funds may be used for administrative costs.

Eligible legal services include family law, juvenile law, entitlements to federal government benefits, protection from domestic violence, elder and child abuse, and immigration matters. Programs that receive funding are eligible to access the SUNCOM Network Services and the Department is billed directly. Unused funds are not carried forward and must be returned to the Department for transfer to the State Treasury to the credit of the fund from which they were appropriated.

Performance Measure and Unit Cost Data:

- Clients served.
  - 2007-08 Approved Standard: 2,700
    - 2007-08 Actual Performance: 19,315
  - 2008-2009 Approved Standard: 2,700
    - 2008-09 Actual Performance: 7,041
  - 2009-10 Approved Standard: 2,700
  - 2010-11 Requested Standard: 2,700

- Provide Civil Legal Assistance
  - 9,961 Units Served
  - $100 Unit Cost
  - $1,000,002 Total Expenditures

Issues:

- Until the last fiscal year, the Civil Legal Assistance program received between $1 - $2.5 million in General Revenue. For FY 2007-08, funding was provided from the Department's Administrative Trust Fund and in FY 2008-09, funding generated from the per-square foot under-roof floor space assessment used by the Department to support the Florida Building Commission was re-directed to the Grants & Donations Trust Fund to be used to provide civil legal assistance, support regional planning councils, and fund the Front Porch Florida Initiative.[47]
- For fiscal year 2009-2010, the Civil Legal Assistance Program received an appropriation of $1 million from the Operating Trust Fund.

Special District Information Program (s. 189.412, F.S.) - The Special District Information Program is created in s. 189.412, F.S., which also provides the Department with specific duties including, but not limited to, the collection and maintenance of special district noncompliance status reports from other state entities, the maintenance of the Official List of Special Districts used by more than 685 state and local agencies to monitor special districts, the publication and updating of the "Florida Special District Handbook" which covers state special district requirements and helps hold special districts and governing board members accountable to the public, and providing assistance to local general-purpose governments and state agencies in collecting delinquent

[46] *See* s. 68.096(2), F.S.
[47] *See* s. 32 of Chapter 2008-153, Laws of Florida, and Line Item 1606A of the 2008 General Appropriations Act.

reports or information and help special districts comply with reporting requirements, and at the direction of the Joint Legislative Auditing Committee, initiating legal enforcement against special districts not in compliance with state financial reporting requirements.

Section 189.425, F.S., provides the Department with the authority to adopt rules to implement the provisions of the "Uniform Special District Accountability Act of 1989," and s. 189.427, F.S., provides the Department with the authority to assess an annual fee of not more than $175 to pay for one-half of the costs incurred by the Department in implementing the Special Districts Information Program.

The division reports the following special district statistics as of October 2009:

- 1,628 special districts exist statewide.
    - 617 dependent special districts
    - 1,013 independent special districts
- 1,559 of the special districts are single county special districts and 69 are multi-county special districts.
    - 580 special districts function as community development districts.
    - 201special districts function as community redevelopment districts.
    - 96 special districts function as drainage and water control districts.
    - 93 special districts function as public housing authorities.
    - 67 special districts function as fire control and rescue districts.
    - 63 special districts function as soil and water conservation districts.
    - 5 special districts function as water management districts.

Community development districts (CDDs) are the most common of the special districts and are created to finance, construct, and maintain community or subdivision infrastructure improvements. Each CDD operates as an independent taxing authority with its own budget and specific, but limited, powers. Primarily, a CDD issues tax-exempt bonds to construct infrastructure such as roads and water/sewer lines, and pays for itself by levying special assessments to the property owners within the community or subdivision to pay for infrastructure costs and maintenance. The CDDs are each governed by a 5-member board of supervisors who are elected by the landowners within the community or subdivision.[48]

Special districts are similar to counties and cities except that the special districts provide special-purpose governmental services instead of general-purpose government services. The Florida Legislature, counties, and cities create special districts to perform essential, specialized ongoing services in which only those who benefit pay. Special districts and their governing boards and employees are held to the same high standards as counties and cities. This includes reporting revenues, expenditures, and debt data to the state; providing for an independent financial audit; and complying with the Government-in-the-Sunshine, public records, and ethics laws.

Performance Measure and Unit Cost Data:

- People trained/served under Special Districts and Small Cities CDBG programs.
    - 2007-08 Approved Standard: 535
        - 2007-08 Actual Performance: 759
    - 2008-09 Approved Standard: 535
        - 2008-09 Actual Performance: 953
    - 2009-10 Approved Standard: 535
    - 2010-11 Requested Standard: Create two measures
        - People Trained/Served Special District Only: 385
        - Number of Individuals Participating in CDBG technical assistance consultations and training programs: 450

- Unit cost data included with the Small Cities CDBG program unit cost data.

[48] *See generally*, The Uniform Community Development District Act, Chapter 190, F.S.

Advisory Councils or Committees

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

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

Issues:

- Issues being considered by the Century Commission include the following:
    - Exploring the Gulf – A focus on the science and technology of impacts of energy exploration.
        - The Commission held a summit on the issue in Tallahassee on October 5, 2009 and additional summits will be held across the state.
    - Florida by Design – A Conservation Summit
    - Global Cooling: Increasing Urban Albedos to Offset CO_2

Florida Community Assistance Advisory Council (s. 290.048(7), F.S.) - The general purpose of the Florida Community Advisory Council is to advise the Department of Community Affairs in the administration of the federal Community Services Block Grant, Low Income Home Energy Assistance, and Weatherization Assistance programs. The Advisory Council reviews the annual state plans for the programs as well as any proposed rule revisions. Membership on the Advisory Council is broadly representative of individuals, organizations, and agencies, including but not limited to, those that represent low-income persons, particularly the elderly, disabled, homeless, Native Americans, and migrant and seasonal farmworkers. The Advisory Council meets twice a year and all meetings are publicly noticed.

Funding

***Operating Trust Fund* -** The Operating Trust Fund within the Department is the repository for fees and penalties assessed by the Department for the operation of the Special District Information Program, fees and penalties assessed by the Department for operation of hazardous material facilities, and fees and penalties assessed by the Department related to building code responsibilities. With respect to the Special District Information Program, s. 189.427, F.S., authorizes the Department to establish a schedule of fees that may not exceed $175 per year to pay one-half of the costs incurred by the Department in administering the program. Sections 252.85 and 252.86 F.S., authorize the Department to collect certain fees and penalties from owners and operators of hazardous waste facilities. Section 553.721, F.S., authorizes the Department to assess a surcharge of 1/2 penny per square foot under-roof floor space for construction permitted by local government. For additions, renovations, and alterations, the surcharge is assessed against the square footage being added, renovated, or altered. The Department is also authorized under s. 553.37, F.S., to establish a schedule of fees that will pay the cost of administering and enforcing requirements relating to the construction, inspection, and certification of manufactured buildings and building modules.

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

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

***Florida Small Cities Community Development Block Grant Trust Fund* -** The Small Cities Block Grant Trust Fund is funded annually by the U.S. Department of Housing and Urban Development. ARRA stimulus funds for the Small Cities program, NSP housing foreclosure funds, and Disaster Recovery funds from HUD are also placed in this trust fund.

***Community Services Block Grant Trust Fund* -** The Community Services Block Grant Trust Fund is funded annually by the U.S. Department of Health and Human Services. ARRA stimulus funds for CSBG are also placed in this trust fund.

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

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

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

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

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

Division of Emergency Management – Responsibilities and Programs

The Division of Emergency Management (DEM) operates as a separate budget entity whose Director reports directly to the Governor. The division is statutorily required to enter into a service agreement with the Department of Community Affairs (DCA) for professional, technological, and administrative support services.[49]

DEM is responsible for maintaining a statewide program of emergency management. This includes coordination with the federal government, other state agencies, county and municipal governments, school boards, and private agencies.[50] The division directs and controls the state's emergency response and recovery operations through the operation of a State Emergency Operations Center (SEOC). The division also works closely with the Department of Law Enforcement (FDLE) to protect against acts of terrorism, and for the initial response to and recovery from such acts.[51] DEM is the State Administrative Agency (SAA) responsible for administering federal disaster

[49] Section 20.18, F.S.
[50] Section 252.35, F.S.
[51] Section 943.03101, F.S.

response, recovery, and mitigation program grant funding; federal homeland security programs grant funding; and state funds appropriated for emergency management and domestic security purposes.

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

The State Emergency Management Act establishes the framework for emergency management in Florida; confers certain emergency powers to the Governor, DEM, and the governing body of each political subdivision of the state; broadly authorizes the establishment of organizations and measures necessary to carry out the provisions of the Act; provides the means to assist in the prevention or mitigation of emergencies; and requires that the emergency management functions of the state to be coordinated with comparable functions of the federal government.[52]

The Act requires DEM to prepare a state comprehensive emergency management plan that is integrated and coordinated with federal plans and programs. The plan must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters. DEM is required to work closely with local governments and emergency management agencies and organizations in preparing and maintaining the plan. The plan is operations oriented and contains the following components:[53]

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

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

- Prepare executive orders, proclamations, and rules for issuance by the Governor to cope with emergencies and disasters;
- Coordinate federal, state, and local emergency management activities and take all other steps necessary to ensure the availability of adequately trained and equipped emergency management personnel before, during, and after emergencies and disasters;
- Ascertain emergency plan requirements for equipment and supplies, and to plan for and either procure or ensure availability of necessary supplies, medicines, materials, and equipment;
- Institute statewide public awareness programs that promote the self sufficiency of citizens during the first 72 hours following a disaster and provide relevant information regarding statewide disaster plans, evacuation routes, fuel suppliers, and shelters;
- Conduct community education and outreach relating to the registry of persons with special needs and special needs shelters;

[52] Section 252.32, F.S.
[53] Section 252.35, F.S.

- Coordinate with the Department of Education and the Agency for Persons with Disabilities to conduct educational outreach to persons with limited English language skills and persons who are in need of assistance not defined under special needs criteria;
- Adopt strategies, with the assistance of the Department of Agriculture and Consumer Services, relating to the evacuation and sheltering of persons with pets; and
- Make recommendations to the Legislature, building code organizations, and political subdivisions relating to zoning, building, and land use controls; mobile home safety measures; and other measures designed to eliminate emergencies or reduce their impact.

Performance Measures

The division determined that the methodology used for calculating its performance measures and standards has not been adhered to for an extended period of time. In an effort to define more applicable performance measures and standards for the Long-Range Program Plan, the Division is continuing the process of creating new performance methods and standards that can be certified and validated for future use.[54] **No current measures and standards are available to judge the division's performance**.

Programs and Components:[55]

Emergency Management Accreditation Program. Florida participates in a voluntary evaluation and accreditation program for state and local emergency management programs. The evaluation is conducted independently by the National Emergency Management Association using stakeholder developed national standards. The State of Florida, Jacksonville/Duval County and Orange County are among 21 states and four local jurisdictions that have achieved full national accreditation.[56] Benefits from participation in accreditation include establishment of bench marks for program management and program validation.

Issues:

- At this time no additional financial benefits accrue from accreditation, however, DEM reports that the federal government may consider it in the future.

Consequences of Abolishment:

- Attainment of accreditation validates a program's management and professionalism. This benefit would not accrue to the State's emergency management program if DEM did not participate.

Disaster Reservist Program. Disaster response usually requires a surge in human resources to perform the many tasks necessary to manage and recover from a major or catastrophic disaster. It is not cost effective to maintain sufficient full-time personnel to meet such surge requirements. Therefore, the division has established a program to train a cadre of disaster reservists in order to quickly augment its staff when needed. Disaster reservists are required to complete a basic series of Federal Emergency Management Agency (FEMA) disaster assistance courses and DEM training. After completing training, reservists must submit a State of Florida Employment Application and if accepted and then activated, have the ability to deploy to any designated location and commit to a minimum of 30 consecutive days of service.

Consequences of Abolishment:

- According to DEM, the Disaster Reservist Program reduces recovery costs to the state by avoiding the need to hire private consultants to work in the recovery process. Abolishing the program would initially impair disaster response and recovery operations during a disaster while other qualified augmentation

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[54] DIVISION OF EMERGENCY MANAGEMENT, *Long-Range Program Plan Fiscal Years 2010-2011 Through 2014-2015*, (September 2009) Exhibit II , pg. 20.

[55] The description of DEM's programs, advisory committees, performance measures, and data contained herein are sourced directly from DEM's 2008 Sunset Review Report *available at* http://www.floridadisaster.org/DEMpublic.asp (last visited Oct. 28, 2010).

[56] Emergency Management Accreditation Program *available at* http://www.emaponline.org (last visited Oct. 28, 2010).

contractors are being acquired. In the event of a large-scale or multi-state disaster, contractors may not be available due to other obligations.

Fire Management Assistance Grant Program (FMAG). The Fire Management Assistance Grant Program provides federal assistance to cover the costs of fighting an uncontrolled fire or complex of fires which constitute a threat of disaster to public safety and/or improved property. FEMA issues a Fire Declaration upon approval of a state's request for federal assistance. DEM acts as the state administrative agency for the State and for local government agencies seeking FEMA/State Fire Management Assistance for eligible costs. In order to receive assistance, total costs must exceed a cost threshold.[57]

Consequences of Abolishment:

- Administration of this federal program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in significant loss of federal funding.

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

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

Consequences of Abolishment:

- Individual Assistance program duties performed by DEM to assist FEMA in administering this federal program would need to be transferred to another state agency if the DEM is abolished.

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

Consequences of Abolishment:

- Administration of this federal program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in significant loss of federal funding.

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

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

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

Permanent work involves restoration of disaster damaged facilities owned by state/local governments and certain non-profit organizations that provide governmental type services. Permanent work funding is divided into two categories:

- "Large Project Grants," defined in Fiscal Year 2009 as total estimated project cost of $64,400 or more, and
- "Small Project Grants," defined in Fiscal Year 2009 as total estimated project cost less than $64,400.

Program applicants may apply for funding to restore a facility to its pre-disaster state, or may propose an "Alternate Project" for reduced federal assistance for any improvement not related to the disaster when the applicant determines that it is not in the best public interest to restore a disaster-damaged facility. An "Improved Project" option may be proposed as a third option if the applicant decides to exceed the original design and function in the restoration. In this case, federal assistance is limited to the federal share of the original approved restoration project estimate.

The federal share for Public Assistance shall be at least 75 percent of cost and may be up to 100 percent of cost.

Issues:

- As of September 11, 2009, there were 3,420 large projects awaiting final closeout according to DEM officials. Some of these projects date as far back as 1999, however, the majority date from the 2004-2005 hurricane seasons and later.
    - The Auditor General recently conducted an operational audit of DEM for the period July 2007 through February 2009 and published a finding that DEM's organizational structure and procedures were not effectively designed to ensure that disaster projects were appropriately monitored and closed in a timely manner.[58]
    - FEMA requires DEM to annually submit a State Administrative Plan and a Staffing Plan to administer the Public Assistance program. FEMA approves these plans and provides funding to the State for program administration based on them. FEMA conducts program audits to ensure that recovery funds provided are expended according to current law and contractual agreements.
        - DCA's Office of Finance and Accounting is responsible for recording all payments to and from project applicants into the state accounting system (SAMAS). DCA's Inspector General provides IG oversight services to DEM.
    - The 2004-2005 hurricane seasons created a substantial administrative workload for the division which is compounded by each subsequent disaster declaration since that time. According to division officials, DEM staff have written 49,933 project worksheets since 1999. This figure does not include the seven fire management assistance grants that have occurred during the period.
    - DEM has personnel trained to administer the Public Assistance program but none are qualified internal auditors.
        - There are 126.75 FTE's authorized for the Public Assistance program administration of which 110 are OPS personnel. Currently, 27 of the 110 OPS positions are vacant. It is possible that the addition of an internal audit function for DEM might improve program oversight and management. However, designation of such staff FTE's, including filling vacant positions, would require both legislative and FEMA approval.

- Discussions with DEM officials disclosed that the division has established goals to closeout the pre-2004-2005 large projects by January 2010, and 85 percent of the 2004-2005 large projects by October 2010. DEM officials stated an intention to further establish a Quality Assurance/Quality Control workgroup that cuts across bureau lines in order to assist in improving program management.

Consequences of Abolishment:

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[58] Florida Auditor General, Operational Audit Report, *Division of Emergency Management Delays in Settling Disaster Claims*, Report No. 2010-012, September 2009, p 1.

- Administration of this federal program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in significant loss of federal funding in support of state and local government disaster response and recovery operations.

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

Consequences of Abolishment:

- Administration of this federal program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in significant loss of federal funding.

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

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

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

Consequences of Abolishment:

- Administration of this federal program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in significant loss of federal funding.

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

Consequences of Abolishment:

- Administration of this federal program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in significant loss of federal funding and deny residents access to flood insurance which is otherwise unavailable through commercial sources.

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

Consequences of Abolishment:
- Administration of this federal program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in significant loss of federal funding.

Repetitive Flood Claims. The Repetitive Flood Claims grant program provides funding to reduce or eliminate the long-term risk of flood damage to structures insured under the NFIP that have had one or more claim payments for flood damages. The goal of this program is to reduce or eliminate claims under the NFIP through mitigation. Approved applications are prioritized in the order that will result in the greatest savings to the NFIP in the shortest period of time. As of April 2007, Florida had 9,008 repetitive loss properties with damages totaling $420.4 million. DEM administers this program at the state level by reviewing projects for appropriateness, consistency with state and local mitigation strategies, cost-benefit, eligibility, and completeness before submitting claims to FEMA.

Consequences of Abolishment:
- Administration of this federal program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in significant loss of federal funding.

Residential Construction Mitigation Program. The Residential Construction Mitigation Program (RCMP) usually receives $7 million of the total $10 million annual appropriation in mitigation funds from the Florida Hurricane Catastrophe Fund. Florida Statutes prescribe that 40 percent of the $7 million ($2.8 million) be designated for the Mobile Home Tie-Down Program. DEM provides this funding directly to Tallahassee Community College to operate the tie-down program. An additional 10 percent ($700,000) is designated for hurricane research conducted by Florida International University. The remaining 50 percent ($3.5 million) is designated to improve wind resistance in residential homes.[59] The wind resistance program is a competitive grant program that is developed in cooperation with the RCMP Advisory Council and DEM. DEM acts as the state administrative agency in disbursing appropriated funds according to Florida Statute.

Consequences of Abolishment:
- Administration of this state program would need to be transferred to another state agency if the DEM is abolished.

Severe Repetitive Loss Pilot Program. The objective of this pilot federal program is to reduce or eliminate claims under the NFIP. Eligibility for the pilot program is based on having at least four claims over $5,000 each with a cumulative amount exceeding $20,000, or having two separate claims that exceed the market value of the building. As of July, 2007, there were 480 residential properties in Florida that qualified as Severe Repetitive Loss properties as defined by the federal program. DEM administers this program at the state level by reviewing projects for appropriateness, consistency with state and local mitigation strategies, cost-benefit, eligibility, and completeness before submitting them to FEMA. DEM further supports local governments by providing technical assistance, outreach activities, financial and contract management, and project closeouts.

[59] Section 215.559, F.S.

Consequences of Abolishment:

- Administration of this federal program would need to be transferred to another state agency if the DEM is abolished and the pilot program is extended.

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

Issues:

- The Emergency Management Preparedness and Assistance Trust Fund is funded from the imposition of a $2 per policy surcharge imposed on every homeowner's, mobile homeowner's, tenant homeowner's, and condominium unit owner's insurance policy. A $4 per policy surcharge is imposed on every commercial fire, commercial multiple peril, and business owner's property insurance policy. Historically, proceeds from these funding sources have not kept pace with Florida's population growth, thus limiting funding for this program.

Consequences of Abolishment:

- Administration of this state program would need to be transferred to another state agency if the DEM is abolished.

Emergency Management Preparedness Assistance (EMPA) Competitive Grant Program. The EMPA Competitive Grant Program, administered by DEM, supports projects that will further state and local emergency management objectives. Awards are made under two separate sub-programs:

- The Emergency Management Competitive Grant Program which is designed to assist state or regional agencies, local governments, and private non-profit organizations, and
- The Municipal Competitive Grant Program which is reserved for municipalities only that are signatory to the current Statewide Mutual Aid agreement.

Consequences of Abolishment:

- Administration of this state program would need to be transferred to another state agency if the DEM is abolished.

Hurricane Program. The Hurricane Program, while not specifically authorized by ch. 252, F.S., never-the-less supports the objectives of the chapter. The purpose of the Hurricane Program is to coordinate the development and update of Florida's eleven regional hurricane evacuation studies. The state's program is modeled after FEMA's National Hurricane Program. As part of this program, DEM serves as the evacuation technical expert during emergency and non-emergency situations.

DEM is currently administering a program called GIS/LiDAR (Light Detection and Ranging). This technology is being used by the National Oceanic and Atmospheric Administration (NOAA), NASA, and United States Geological Survey (USGS) researchers to document topographic change along shorelines. These data are collected with aircraft- mounted lasers capable of recording elevation measurements at a rate of 2,000 to 5,000 data points per second and have a vertical precision of 15 centimeters (6 inches). DEM will use this data to more accurately predict coastal flooding surge zones and improve the state's ability to direct timely hurricane evacuations.

Consequences of Abolishment:

- Administration of this program would need to be transferred to another state agency and could result in loss of state-level evacuation expertise and federal funding used toward continued improvement and refinement of the hurricane evacuation studies if the DEM is abolished.

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

- The Emergency Alert System ensures that all 67 counties have a working emergency alert system so that warnings can be sent en mass to the citizens of the state.
- The emergency preparedness Public Information Program performs education and outreach to ensure that all Floridians and visitors are prepared for all hazards that may affect the state.
    - Two initiatives of the Public Information Program are the Hazardous Weather Awareness Week and the "Get A Plan" campaign.
        - The Hazardous Weather Awareness Week is held annually in the Spring prior to the start of hurricane season to promote a culture of preparedness throughout the state.
        - The "Get A Plan" campaign is targeted toward encouraging residents who have the means and ability to be prepared in the event of a major storm.
- The Radiological Emergency Preparedness Program is outlined in NUREG-0654 which is published by the Nuclear Regulatory Commission and FEMA.
    - Federal guidelines dictate that states establish and maintain radiological emergency plans and improve emergency preparedness associated with nuclear power plants.
        - The program is funded by the nuclear power industry. DEM assists other state and local agencies with planning expertise.

Consequences of Abolishment:

- Florida Statutes require the establishment of an emergency management program. Administration of this program would need to be transferred to another state agency if the DEM is abolished.

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

Consequences of Abolishment:

- Administration of this federal program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in loss of federal funding.

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

Consequences of Abolishment:

- Administration of this state program would need to be transferred to another state agency if the DEM is abolished.

Florida Emergency Planning And Community Right-To-Know Act – Ch. 252, Part II F.S.

Pursuant to the Florida Emergency Planning and Community Right-to-Know Act, each employer that owns or operates a facility in this state at which hazardous materials are present in quantities at or above thresholds established in the federal Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), Public Law 99-499, shall comply with the reporting requirements of EPCRA. Employers must also provide written notification to the state, local emergency management planning committees, and local fire Departments if there is a discontinuance or abandonment of an employer's business activities that could affect any stored hazardous materials.[60]

The Legislature intended, when it passed this act, that state activities and expenditures under this part be self-sustaining and supported primarily by fees imposed on facility owners or operators.[61] The Act recognizes the establishment of the State Hazardous Materials Emergency Response Commission created pursuant to EPCRA. The Act further grants authority to the Department of Community Affairs to coordinate its activities under this part with its other emergency management responsibilities and make rules with the advice and consent of the commission. The Department is directed to provide administrative support and funding to the commission to enable it to perform its functions under EPCRA.[62] DEM administers several preparedness programs pursuant to this Act.

Programs and Components

Hazardous Materials Planning and Awareness – State Emergency Response Commission (SERC) for Hazardous Materials. In response to a growing concern for safety around chemical facilities, Congress enacted EPCRA. EPCRA contains five sections which cover issues associated with the manufacture, use, exposure, and transportation, and public education of hazardous materials. In Florida, it is the mission of Local Emergency Planning Committees (LEPCs) and the SERC to implement EPCRA and to mitigate the effects of a release or spill of hazardous materials. The SERC serves as a technical advisor and information clearinghouse for state and federal hazardous materials programs.

The Governor appoints the 23 members of the SERC to fill designated membership categories from state agencies (Departments of Environmental Protection, Transportation, and Law Enforcement), the Governor's office, professional organizations such as the Florida Fire Chiefs Association, and private industry. The Governor has designated DEM as the primary agency for coordinating and providing staff to support the emergency planning and prevention requirements of EPCRA and ch. 252, Part II, F.S.[63]

Consequences of Abolishment:
- Administration of this program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in significant loss of program funding.

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

In 1993, the SERC established the Training Task Force to address the requirements of the Hazardous Materials Transportation Act grant program. Since its inception the task force's responsibilities have been expanded to include the development of responder training guidelines, to coordinate with the various responder groups to ensure that required hazardous materials training is available, to establish a uniform classification system for hazardous materials incidents, and to examine the need and feasibility of establishing hazardous materials area response teams.

Consequences of Abolishment:

[60] Section 252.87, F.S.
[61] Section 252.84, F.S.
[62] Section 252.83, F.S.
[63] Governor's Executive Order #05-122.

- Administration of this federal program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in loss of program funding.

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

The Emergency Management Assistance Compact (EMAC) is an agreement entered into by all 50 states, the Commonwealth of Puerto Rico, the District Columbia, and all United States territorial possessions. The purpose of the EMAC is to provide for mutual assistance between the states entering into the compact in managing any emergency or disaster that is duly declared by the governor of the affected state(s). The compact also provides for mutual cooperation in emergency related exercises, testing, or other training activities.[64] DEM coordinates the performance of compact obligations on behalf of the state both in training exercises and during times of actual disaster response.

Consequences of Abolishment:

- Administration of this compact would need to be transferred to another state agency if the DEM is abolished.

Florida Accidental Relase Prevention And Risk Management Planning Act – Ch. 252, Part IV, F.S.

The purpose of the Florida Accidental Release Prevention and Risk Management Planning Act is to implement, fund, and enforce the requirements of the Accidental Release Prevention Program of the federal Clean Air Act. DEM is granted the power and duty to seek delegation from the U.S. Environmental Protection Agency to implement the Accidental Release Prevention Program under the federal Clean Air Act. DEM is responsible for timely submission of Risk Management Plans along with any subsequent revisions. DEM may adopt, modify, and repeal rules, with the advice and consent of the SERC, necessary to administer the Accidental Release Prevention Program; may make and execute contracts; may establish a technical assistance and outreach program to assist owners and operators in complying with the reporting and fee requirements of this part; may provide administrative support including staff, facilities, materials, and services to implement this part; and prevent the duplication of investigative efforts and resources. DEM is prohibited from delegating the Accidental Release Prevention Program to any local environmental agency, and is the only agency authorized to seek implementation delegation.[65] It is the intent of the Legislature that the state activities and expenditures under this part be self-sustaining through fees contributed by owners or operators of specified sources subject to regulation by the United States Environment Protection Agency.[66]

Programs and Components

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

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

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

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[64] Section 252.922, F.S.
[65] Section 252.937. F.S.
[66] Section 252.938, F.S.

government comprehensive emergency management plans to ensure compliance with Rule 9G-6, Florida Administrative Code.

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

Consequences of Abolishment:

- Administration of this program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in loss of program funding.

Counter-Terrorism Coordination - Section 943.03101, F.S.

The Legislature has found that with respect to counter-terrorism efforts and initial responses to acts of terrorism, specialized efforts are required. These efforts intrinsically involve very close coordination of federal, state, and local law enforcement with the efforts of all others involved in emergency-response efforts. The FDLE is designated as the coordinating agency for such efforts while working closely with DEM and others involved in preparation against acts of terrorism in accordance with the state comprehensive emergency management plan.[67]

The Legislature further found a need to provide executive direction and leadership with respect to terrorism prevention, preparation, protection, response, and recovery efforts by state and local agencies. In recognition of this need, the Legislature created the Domestic Security Oversight Council (DSOC) to provide guidance to the state's Regional Domestic Security Task Forces (RDSTF) and other domestic security working groups.

The DSOC is directed to make recommendations to the Governor and the Legislature regarding the expenditure of funds and allocation of resources related to counter-terrorism and domestic security efforts. The executive director of FDLE serves as chair of the council, and the director of DEM serves as council vice-chair.[68]

Programs and Components

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

- Seven RDSTFs consisting of local representatives from disciplines involved in prevention and response including law enforcement, fire/rescue, emergency medical services, emergency management, hospitals, public health, schools and businesses, encompass the entire state.
  - The RDSTFs work together with the Chief of Domestic Security to prepare for, prevent, and respond to terrorist acts.
- The DSOC reviews and provides guidance to the state's domestic security prevention, preparedness, and response activities.
  - The council reviews the efforts of and provides guidance to the RDSTFs and formally approves and directs state adoption of the Homeland Security Strategy.
  - In addition to the chair and vice-chair, membership includes:
    - The Attorney General, the Commissioner of Agriculture, the State Surgeon General, the Commissioner of Education, the State Chief Information Officer, and the State Fire Marshal;

[67] Section 943.03101, F.S.
[68] Section 943.0313, F.S.

        - The Adjutant General of the Florida National Guard;
        - Each of the seven sheriffs or chiefs of police who serve as RDSTF co-chairs;
        - Each of the seven FDLE special-agents-in-charge who also serve as an RDSTF co-chairs
        - Two representatives of the Florida Fire Chiefs Association, and one representative of the Florida Police Chiefs Association;
        - One representative of the Florida Prosecuting Attorneys Association;
        - The chair of the Statewide Domestic Security Intelligence Committee; and
        - One representative each for the Florida Hospital Association, the Emergency Medical Services Advisory Council, the Florida Emergency Preparedness Association, and the Florida Seaport Transportation and Economic Development Council.
    - Additional ex-officio members may be appointed as non-voting members to attend and participate in council meetings.
- The State Working Group (SWG) was established to bring together representatives and subject matter experts from the RDSTFs, urban areas designated under the Urban Area Security Initiatives (UASI) program, and other key agencies in order to address domestic security issues that are identified by the RDSTFs and the DSOC.

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

Consequences of Abolishment:

- Administration of this program would need to be transferred to another state agency if the DEM is abolished. Failure to participate in this program would result in significant loss of program funding.

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

Consequences of Abolishment:

- Administration of this program would need to be transferred to another state agency if the DEM is abolished.

Advisory Councils, Committees, or Commissions

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

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

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

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

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

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

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

Local Emergency Planning Committees (Management Initiative). The LEPCs are coordinating councils[69] which provide hazardous materials training opportunities and conduct planning and exercise activities in each of the 11 emergency management planning districts.

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

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

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

State Working Group on Domestic Preparedness (Management Initiative). The State Working Group (SWG) plays a vital role in the state's domestic security program by providing a coordinating function for domestic security issues. It consists of an Executive Board and six committees. The Executive Board members are appointed from the five principal state agencies charged with domestic security responsibilities with DEM serving as co-chair. A DEM representative also serves as co-chair and voting member on each of the six functional committees.

During Fiscal Year 2006-2007, the SWG coordinated the development of the Alternative Medical Treatment Site Plan, the Ambulance Deployment Plan, the Florida's Pandemic Influenza Annex to the State Comprehensive Emergency Management Plan, and the Statewide Critical Infrastructure Strategy. The SWG also coordinated in the conduct of seven regional exercises centered on the Target Capabilities List and one executive level exercise involving the Governor and his senior staff.

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

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

Emergency Management Advisory Working Group (Management Initiative). Accreditation under the Emergency Management Accreditation Program requires that an advisory group assist DEM. This group is newly formed in recognition of the fact that the State Emergency Response Team (SERT) is a partnership between DEM and local emergency management organizations. The group's initial stated purpose is to expand emergency management program governance. The group conducted its first organizational meeting on October 10, 2008.

Florida Housing Finance Corporation

Mission

The Florida Housing Finance Corporation (successor to the Florida Housing Finance Agency) is the state entity primarily responsible for financing the construction and reconstruction of new and rehabilitated affordable housing in Florida and encouraging the investment of private capital in affordable housing. The corporation was created by the Legislature in 1997 to streamline implementation of affordable housing programs and is a public corporation housed within the DCA. Section 420.504, F.S., provides that the corporation is a separate budget entity not subject to control, supervision, or direction by the DCA, and is governed by a nine-member board of directors comprised of the Secretary of Community Affairs (serving as an ex officio voting member) and eight members appointed by the Governor. The gubernatorial appointees are subject to confirmation by the Senate. Per Section 420.504(3), F.S., the Board consists of appointees as follows:

- One engaged in the residential home building industry;
- One engaged in the banking or mortgage industry;
- One who represents areas of labor engaged in the home building industry;
- One who advocates for low-income persons and has experience in housing development;
- One who is actively engaged in the commercial building industry;
- One former local government elected official; and
- Two citizens who don't represent any of the other listed groups.

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

FHFC Annual Audit - 2007

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

- Total Assets of $6.4 billion of which $6.2 billion is restricted by bond indenture or by statute.
  - Assets include current non-capital assets of $1.3 billion, non-current assets of $5.1 billion, and net capital assets of $200,000.
- Total Liabilities of $4.4 billion.
  - Liabilities include current liabilities of $160 million, and noncurrent liabilities of $4.3 billion.[70]
  - Total bond debt outstanding is $4.1 billion net of discounts.
- Total Net Assets of $1.993 billion.

[70] Current assets include cash and cash equivalents, investments, interest receivable on investments, interest receivable on loans, net loans receivable, documentary stamp taxes receivable, and other assets. Noncurrent assets include net investments, net loans receivable, net deferred finance charges, and net capital assets. Current liabilities include accounts payable, accrued interest payable, accrued arbitrage rebate, collateralized bank loan, net bonds payable, and net deferred fee income. Noncurrent liabilities include net bonds payable, net deferred fee income, other liabilities, monies due to developers, and moneys due to the State of Florida.

    - Restricted net assets total $1.896 billion.
    - Unrestricted net assets total $96.6 million.
- Operating Revenues of $358.7 million.
    - Interest on loans - $145.4 million, investment income - $189.3 million, other income - $19.8 million, and HUD administrative fees - $4.2 million.
        - Restricted operating revenues total $333.6 million.
        - Unrestricted operating revenues total $25.1 million.
- Operating Expenses of $436.2 million.
    - Interest expense - $199 million, payments to other governments - $154.4 million, provision for uncollectible loans - $22.9 million, general and administrative expenses - $46.7 million, and housing assistance payments - $13.3 million.
        - Operating expenses in restricted funds total $411.3 million.
        - Operating expenses in unrestricted funds total $24.9 million.
- Non-operating revenues and expenses of $427.5 million.
    - HUD program receipts of $44.3 million, and state documentary stamp tax receipts of $387.4 million, and transfers to state agencies of ($4.2 million).
        - Non-operating revenues and expenses in restricted funds total $421 million.
        - Non-operating revenues and expenses in unrestricted funds total $6.4 million.[71]

FHFC Annual Audit - 2008

According to the independent annual audit performed by Ernst & Young LLP, which covers the year ending December 31, 2008, the Florida Housing Finance Corporation had:

- Total Assets of $6.7 billion of which $6.5 billion is restricted by bond indenture or by statute.
    - Assets include current non-capital assets of $1.4 billion, non-current assets of $5.3 billion, and net capital assets of $186,000.
- Total Liabilities of $4.7 billion.
    - Liabilities include current liabilities of $249 million, and noncurrent liabilities of $4.4 billion.[72]
    - Total bond debt outstanding is $4.4 billion net of discounts.
- Total Net Assets of $1.964 billion.
    - Restricted net assets total $1.863 billion.
    - Unrestricted net assets total $101.2 million.
- Operating Revenues of $336.2 million.
    - Interest on loans - $131 million, investment income - $176.2 million, other income - $25.7 million, and HUD administrative fees - $3.3 million.
        - Restricted operating revenues total $311.7 million.
        - Unrestricted operating revenues total $24.5 million.
- Operating Expenses of $436.5 million.
    - Interest expense - $204.6 million, payments to other governments - $126.5 million, provision for uncollectible loans - $35.7 million, general and administrative expenses - $47 million, and housing assistance payments - $3.5 million.
        - Operating expenses in restricted funds total $418 million.
        - Operating expenses in unrestricted funds total $18.5 million.
- Non-operating revenues and expenses of $71.4 million.
    - HUD program receipts of $30.7 million, state documentary stamp tax receipts of $171.4 million, and transfers to state agencies of ($130.7 million).

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[71] Information on restricted and unrestricted assets, revenues, and expenses for both years provided by the Florida Housing Finance Corporation.

[72] Current assets include cash and cash equivalents, investments, interest receivable on investments, interest receivable on loans, net loans receivable, documentary stamp taxes receivable, and other assets. Noncurrent assets include net investments, net loans receivable, net deferred finance charges, and net capital assets. Current liabilities include accounts payable, accrued interest payable, accrued arbitrage rebate, collateralized bank loan, net bonds payable, and net deferred fee income. Noncurrent liabilities include net bonds payable, net deferred fee income, other liabilities, monies due to developers, and moneys due to the State of Florida.

        - Non-operating revenues and expenses in restricted funds total $71.1 million.
        - Non-operating revenues and expenses in unrestricted funds total $302,000**.**

Affordable Housing Finance Performance Measures and Unit Cost Data:

- Ratio of non-state funding to state appropriated dollars.
    - 2007-2008 Approved Standard: $2 to $1
        - 2007-2008 Actual Performance: $7 to $1
    - 2008-2009 Approved Standard: $2 to $1
        - 2008-2009 Actual Performance: $3 to $1
    - 2009-2010 Approved Standard: $2 to $1
    - 2010-2011 Requested Standard: $2 to $1
- Percent of units exceeding statutory set-asides.
    - 2007-2008 Approved Standard: 105 percent
        - 2007-2008 Actual Performance: 245 percent.
    - 2008-2009 Approved Standard: 105 percent
        - 2008-2009 Actual Performance: 213 percent
    - 2009-2010 Approved Standard: 105 percent
    - 2010-2011 Requested Standard: 105 percent
- Number of housing assistance applications processed.
    - 2007-2008 Approved Standard: 563
        - 2007-2008 Actual Performance: 1,288
    - 2008-2009 Approved Standard: 563
        - 2008-2009 Actual Performance: 1,889
    - 2009-2010 Approved Standards: 563
    - 2010-2011 Requested Standard 563
- Number of Affordable Housing Loans Funded
    - 2008-2009 Approved Standard: 540
        - 2008-2009 Actual Performance: 1,712
    - 2009-2010 Approved Standard: 540
    - 2010-2011 Requested Standard: 540
- Number of Local Governments under compliance monitoring for the SHIP program
    - 2008-2009 Approved Standard: 117
        - 2008-2009 Actual Performance: 119
    - 2009-2010 Approved Standard: 117
    - 2010-2011 Requested Standard: 120
- Number of local governments served SHIP program incentive funds
    - 2008-2009 Approved Standard: 117
        - 2008-2009 Actual Performance: 119
    - 2009-2010 Approved Standard: 117
    - 2010-2011 Requested Standard: 120
- Sadowski Programs/Number of affordable housing loans funded
    - FY 2008-2009
        - 1,705 Units
        - $65,366 Unit Cost
        - $111,448,935 Total Expenditures
- SHIP/Number of Local Government Served
    - FY 2008-2009
        - 119 Units
        - $1,173,992 Unit Cost
        - $139,705,024 Total Expenditures
- SHIP Compliance Monitoring/Local Governments Monitored
    - FY 2008-2009
        - 119 Units
        - $3,225 Unit Cost

- $383,802 Total Expenditures

Funding

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

Together, the Housing Trust Funds receive up to $243 million: $70.5 million to the State Housing Trust Fund (SHTF) and $172.5 million to the Local Government Housing Trust Fund (LGHTF). SHIP typically receives the bulk of the LGHTF funds and $5.9 million is transferred to the Department of Children and Families for homeless programs. The corporation's Board of Directors determines the allocation of State Housing Trust Fund appropriations among the programs unless otherwise directed by the Legislature. Historically, the SAIL program has been allocated the largest portion of the SHTF funds.

However, in fiscal year 2009-2010, the total appropriation to the Local Government Housing Trust Fund was $31.1 million, with $30.1 million directed to the Florida Homebuyer Opportunity Program. An appropriation of $1 million from the Local Government Housing Trust Fund was directed to be used as a match for funds awarded as part of the federal stimulus package to assist in the preservation and rehabilitation of older housing under the control of public housing authorities. Unobligated funds in the amount of $91.8 million remaining in the State Housing Trust Fund and the Local Government Housing Trust Fund were transferred to the state's General Revenue Fund, and the SAIL and SHIP programs were not funded.

Private Activity Bonds – Exempt Facility Bonds and Qualified Mortgage Bonds (s. 159.804, F.S.) - Section 146 of the Internal Revenue Code (Title 26, United States Code) establishes the volume cap for issuers of tax-exempt private activity bonds authorized under the Code and establishes a state ceiling applicable to any state for any calendar year. In 2009, the ceiling is the greater of the state's population multiplied by $90, or $273.27 million, and it is annually adjusted for inflation. The volume cap for state agencies authorized to issue the tax exempt bonds is 50 percent of the state ceiling for each calendar year.

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

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

Mortgage Revenue Bonds). Proceeds from the issue of tax-exempt qualified mortgage bonds are used to originate 30-year, fixed-rate mortgage loans through the First Time Homebuyer Program.

In 2009, the tax-exempt bond allocation to the Florida Housing Finance Corporation for the issuance of private activity bonds was $388 million.

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

The federal Housing and Economic Recovery Act of 2008 provided Florida with an additional $571 million in bond capacity for qualified residential rental projects and the First Time Homebuyer Program so long as bond proceeds for home ownership are used within one year of the bond issue. Florida Housing Finance Corporation received $303.1 million of the allocation and the remainder was given to local housing finance agencies across the state.

State Revenue Bonds (s. 420.509, F.S.) - The Florida Housing Finance Corporation is authorized to issue revenue bonds to provide funds in an amount sufficient to achieve the purposes for which the corporation was established. The provisions of the State Bond Act[73] do not apply to the corporation. Revenue bonds issued by the corporation are payable only from pledged revenues and are not secured by the full faith and credit of the state.

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

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

Programs

State Apartment Incentive Loan Program (s. 420.5087, F.S.) - The State Apartment Incentives Loan (SAIL) Program provides non-amortizing,[74] low-interest loans on a competitive basis to developers of affordable rental housing. The SAIL program provides gap financing that leverages federal tax exempt facility bonds for qualified

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[73] *See* ss. 215.57-215.83, F.S.

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

residential rental housing and, in some instances, leverages the federal Low Income Housing Tax Credits to allow developers to obtain the full financing necessary for construction of affordable, multifamily residential rental units. Special consideration is given for projects that provide housing for the elderly, the homeless, farmworkers, and commercial fishing workers.

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

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

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

During the first six months that funds are available for loans or for loan guarantees, at least ten percent of the funds available are set aside for sponsors of projects that provide unit availability to commercial fishing workers and farm workers, families, and elderly persons, and at least five percent to serve homeless persons. The amount of funds to be set aside is determined using the most recent statewide very-low-income rental housing market study available to the time of publication of each notice of fund availability. In addition, ten percent of that portion set aside as described above for elderly persons is provided under the corporation's Elderly Housing Community Loan Program.[75]

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

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

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

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

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

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

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

State Housing Initiatives Partnership Program (s. 420.907-420.9079, F.S.) - The State Housing Initiatives Partnership Program (SHIP) provides state funds to local governments on a population-based formula as an incentive to produce and preserve affordable housing for very-low, low, and moderate income persons or families.[76] Documentary stamp tax revenues deposited into the Local Government Housing Trust Fund are distributed on an entitlement basis to all 67 counties and to the 53 cities entitled to receive federal Community Block Development Grant funds. The minimum allocation per county is $350,000, and at least 65 percent of the funds available to each county and city must be reserved for home ownership for eligible persons. A minimum of 75 percent of SHIP funds must be used for construction-related activities. SHIP funds can be used to fund emergency repairs, new construction, rehabilitation, down payment and closing cost assistance, impact fees, property acquisition, matching dollars for federal programs, and homeownership counseling. Each participating local government may use up to ten percent of its SHIP funds for administrative expenses.

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

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

The Florida Housing Finance Corporation is authorized to provide loans for construction or rehabilitation of workforce housing on a competitive basis. The Legislature appropriated $112.4 million for the implementation of the CWHIP program in fiscal years 2006-07 and 2007-08, but no funds have been appropriated since. Florida Housing, per Chapter 2009-1, L.O.F., and outlined in Rule 67ER09, F.A.C., returned to the state $84,471,887 of awarded, but unexpended CWHIP funds. The remaining $27,928,113 was used to fund nine eligible CWHIP projects.

Issue:

- Repeal of the CWHIP program if funding is permanently discontinued.

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

Through 2001, the single family mortgage revenue bond program was a whole loan program and the various indentures securing the bonds bore the full risk of the loans. Now, the program is structured as a mortgage backed securities program with loans guaranteed by Fannie Mae, Freddie Mac and Ginnie Mae. Approximately 9 percent of the loans in the Florida Housing Finance Corporation's portfolio are whole loans and 91 percent are mortgage backed securities.

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

- The Florida Assist Program provides zero percent interest, non-amortizing second mortgages of up to $7,500 to assist with down payment and closing costs. Applicants may not earn more than 100 percent of the area median income. No monthly payments are made and the loan comes due when the house is sold or the first mortgage is refinanced.
- The Homeownership Assistance for the Moderate Income Loan Program provides loans of up to $5,000 to assist with down payment and closing costs. Loans are offered at a 5 percent interest rate, fully amortize over ten years, and applicants must earn at or below the income limits imposed by the First Time Homebuyer Program.

Multifamily Mortgage Revenue Bonds - The Internal Revenue Code limits the use of private activity bonds for exempt facilities to qualified residential rental projects meeting income set aside requirements. Under this authority, and under statutory authority, the Florida Housing Finance Corporation issues mortgage revenue bonds for multifamily developments to provide below market rate loans to nonprofit and for profit developers who set aside a certain percentage of their units for persons and families meeting income requirements at both the state and federal levels. In order to access this comparatively expensive financing for the development of affordable rental housing, the corporation pairs financing such as SAIL funds with Bonds to make these developments feasible.

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

Forty percent of funds available are allocated to the state and each state allocation is calculated under a weighted formula. Sixty percent of the funds available are allocated to metropolitan cities, urban counties, and consortiums of geographically contiguous units of local government and the distribution is also calculated under a weighted formula. The federal fiscal year 2009 allocation for Florida totals $81.5 million and consists of $22 million for the state program, $1.3 million for two consortiums, with the remainder being distributed to 56 cities and 19 counties.[77]

The Florida Housing Finance Corporation uses the state allocation for both homeownership (see the Homeownership Pool Program summary below) and rental financing. On the rental side, the corporation provides non-amortizing, low-interest loans to developers of affordable housing who acquire, rehabilitate, or construct affordable rental housing. Loans are offered at the simple interest rate of zero percent to non-profit applicants and at 1.5 percent to for profit applicants. The corporation has typically used the HOME program for smaller developments in rural areas, but also has targeted such special needs as migrant farmworker housing, and housing for those with disabilities.

Homeownership Pool Program - The Homeownership Pool Program (HOP) is a non-competitive and on-going program where developers reserve dedicated funds for eligible homebuyers to provide down payment assistance on a first-come, first-serve basis. The HOP is funded out of federal HOME program funds and the state's HAP program. In FY 2009-10, the HOP dedicated amount is $10 million from the HOME Program.

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

Agency Advisory Committee

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

Special Programs and Initiatives

Neighborhood Stabilization Program 2 (NSP2) - The federal American Recovery and Reinvestment Act of 2009 (ARRA) provides an additional $2 billion in NSP funds under a competitive program approach rather than the formula used under NSP1. The NSP2 funding is available to non-profit organizations, states, and local governments. To improve the ability of the NSP1 and 2 receiving communities to efficiently reach neighborhood stabilization goals, $50 million of the $2 billion is allocation to provide technical assistance to those communities.

Under ARRA, five eligible uses of up to $1.93 billion in NSP2 funds are authorized:

- Establishing financing mechanisms for the purchase of foreclosed homes.
- Purchase and rehabilitation of abandoned or foreclosed homes.
- Demolition of blighted structures.
- Land banking of foreclosed homes.
- Redevelopment of vacant or demolished property.

[77] Information on the 2008 allocation is available at http://www.hud.gov/offices/cpd/about/budget/budget09/states/fl.xls.

Applicants must meet minimum thresholds and are required to respond to identified criteria in the Notice of Funding Availability issued May 4, 2009. Rating factors include the grantee's capacity to execute projects, leveraging potential, and concentration of investment to achieve neighborhood stabilization. Applications were required to be submitted by July 17, 2009.

The Florida Housing Finance Corporation, working with the DCA, submitted a proposal for $300 million in NSP2 funds which, if received, will be used to serve target census tracts throughout the state with a HUD risk score of 18 or higher for foreclosure and/or vacancy. The funds will be used for down payment assistance, acquisition and rehabilitation of foreclosed homes and apartments for homeowners and renters, establishment of land banks for future use as affordable housing, and demolition of blighted and foreclosed properties. HUD is expected to announce grant awards later this year. The Florida Housing Finance Corporation serves as the lead member of the state consortium. The proposed strategies for use of the funds include:

- $25 million to provide access to first mortgage financing and down payment assistance to assist homebuyers in purchasing foreclosed homes that require little or no rehabilitation. The corporation will work with its statewide group of participating private lenders and real estate professionals to provide zero percent interest rate financing and down payment assistance of up to $14,999 in the form of a loan at zero percent interest, with no monthly payments, and due in full upon sale, refinancing, or change of occupancy as the primary residence of homebuyer. (Responsible partner: Florida Housing Finance Corporation)
- $20 million to provide financing to non-profit and for-profit developers to acquire, rehabilitate, and sell foreclosed homes to eligible homebuyers with incomes at or below 120 percent of the area median income. Down payment assistance of up to $25,000 may be provided to the homebuyer in the form of a soft second loan at zero percent interest, with no monthly payment, and due in full upon sale, refinancing, or change of occupancy as primary residence of homebuyer. (Responsible partner: Florida Housing Finance Corporation)
- $22.5 million to non-profit and for-profit developers to finance construction of new residences on vacant lots or lots from which blighted structures have been removed. Down payment assistance of up to $25,000 may be provided to the eligible homebuyer in the form of a loan at zero percent interest, with no monthly payments, and due in the full upon sale, refinancing, or change of occupancy as primary residence of homebuyer. (Responsible partner: Florida Housing Finance Corporation)
- $100 million to provide funds to non-profit and for-profit developers to acquire, rehabilitate, and rent foreclosed housing to tenants with incomes that do not exceed 50 percent of the area median income. Priority funding will be provided for projects with units that are set aside for extremely-low-income persons or families, and households with special needs. (Responsible partner: Florida Housing Finance Corporation)
- $57.5 million to non-profit and for-profit developers to finance the construction of new residences for rental on vacant property or on property from which blighted structures have been removed. Priority funding will be provided for developments with units that are set aside for extremely-low-income persons or families, and households with special needs. (Responsible partner: Florida Housing Finance Corporation)
- $25 million to allow local governments, in partnership with non-profit organizations, to establish land banks for the purchase of foreclosed and/or blighted properties for future use. (Responsible partner: Florida Housing Finance Corporation)
- $50 million in supplemental funding to NSP1 grantees funded through the DCA that have demonstrated a capacity to spend the NSP1 funds quickly and effectively. (Responsible partner: DCA)

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

- Quantify affordable housing needs in the state by analyzing available data, including information contained in the housing elements of the local comprehensive plans required under chapter 163, F.S.;
- Document the results since 1980 of all DCA administered programs that provide or act as incentives for housing production or improvement;

- Inventory the supply of affordable housing units made available through federal, state, and local programs, including the geographic distribution of available affordable housing units.
- Provide the Legislature with an annual updated housing report describing the supply of and need for affordable housing.
- Conduct research on program options to address the need for affordable housing, and on training models to be replicated or adapted to meet the needs of entities involved in housing development.

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

Low Income Housing Tax Credit (s. 420.5099, F.S.) - The federal Low Income Housing Tax Credit[78] provides funding for the development costs of affordable housing by allowing an investor in that housing to take a federal tax credit equal to a large percentage of the costs incurred for development of affordable rental housing. Capital is raised by syndicating the credit to an investor or a group of investors, and the credit is administered by the state agency which receives a fixed allocation of credits based on population. Credits are allocated annually by the U.S. Department of Treasury using a per capita amount times the state population plus the state's share of the national pool created by unused credits in other states. The per capita amount was $2.30 in 2009 and it is adjusted annually for inflation. The per capita amount will drop to $2.10 in 2010 as a result of the expiration of the $0.20 boost provided by the federal Housing and Economic Recovery Act of 2008. Florida's housing credit allocation for 2009 is $42.5 million.

The Florida Housing Finance Corporation is the state agency responsible for administering the credits allocated to Florida to ensure the maximum use of the credits available. The corporation gives special consideration in its application process to projects that target specific demographic groups such as the elderly, homeless households and farmworkers; to projects that target geographic designations such as rural areas, urban infill areas, and the Florida Keys; and to projects that target the preservation of existing affordable housing. A housing credit allocation can be used for 10 consecutive years once a development is placed in service. Each development must set aside a minimum percentage of the total units for eligible low, very low and extremely low income residents for the duration of the compliance period, which is a minimum of 30 years. At least 20 percent of the housing units must be set aside for households earning 50 percent or less of the area median income (AMI), or 40 percent of the units must be set aside for households earning 60 percent or less of the AMI. Traditionally, the developers choose to set aside a minimum of 70 percent of the units for households earning 60 percent or less of the AMI, including at least 10 percent of the set-aside units for extremely low income residents.

Under ARRA, the Tax Credit Assistance Program (TCAP) provides $2.25 billion in special HOME funds to be allocated as cash grants to housing credit agencies to make it easier for developments already awarded low-income housing tax credits in 2007-2009 to obtain adequate investment financing. During the economic downturn, the developments were unable to obtain financing for the tax credits awarded due to market conditions. Only one state housing credit agency per state is designated as an eligible recipient and, in Florida, the FHFC has received $101 million in TCAP funding which has been allocated to qualified low-income housing projects using requests for proposals. Seventy-five percent of this cash grant must be committed to qualified developments by February 16, 2010, and all of it must be expended by February 16, 2012.

Also under ARRA, the Tax Credit Exchange Program (TCEP) allows allocating agencies to exchange up to 40 percent of the 2009 Low Income Housing Tax Credit allocation as well as all previously awarded and returned housing credits for cash grants from the U.S. Treasury to assist developments to be adequately financed during the economic downturn. The grants can be used to finance the construction, acquisition, or rehabilitation of qualified

[78] The Low Income Housing Tax Credit is governed by s. 42, Title 26 of the Internal Revenue Code (26 U.S.C. § 42).

low-income housing. The FHFC reports that Florida will receive at least $580 million in TCEP funding from the U.S. Department of the Treasury. The FHFC has awarded funds to qualified applicants submitting requests for proposals. All of these funds must be expended by December 31, 2011.

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

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

In the 2009A Special Session, the Legislature enacted ch. 2009-1, Laws of Florida, Special Appropriations, and reduced the funding for the Preservation Rehabilitation Pilot Program by $5 million.

Hurricane Related Housing Activities

In the aftermath of the 2004 hurricane season, Governor Bush issued Executive Order 04-240 to create the Hurricane Housing Work Group to address housing and community needs due to the impact of the four hurricanes that devastated Florida within a six-week period. The Work Group was asked to assess and make recommendations on the best use of one-time state and federal dollars, and to identify regulatory barriers that hindered the rebuilding of suitable housing. The Work Group issued its report in February 2005,[79] which recommended the creation of a locally administered Hurricane Housing Recovery Program, a Rental Recovery Loan Program, a Farmworker Housing Recovery Program, and a Special Housing Assistance and Development Program. The Work Group further recommended that the Florida Housing Finance Corporation administer the Hurricane Housing Recovery Program through the established SHIP Program infrastructure. In 2005 and in 2006, the Legislature provided the corporation with the authority to adopt emergency rules to implement these housing recovery efforts.

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

Performance Measures:

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

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

- o 2008-2009 Approved Standard: 28

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

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

Trust Funds, Corporation Funds

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

In 1992, the use of moneys in the SHTF for agency administrative and personnel costs was limited to not more than 5 percent of the moneys deposited into the trust fund. In 1997, when the Florida Housing Finance Corporation was created as the successor to the Florida Housing Finance Agency, the corporation was provided with the authority to be the administrator of the SHTF on behalf of the DCA. Moneys deposited to the SHTF are to be transferred quarterly, if available, and only when the Secretary of Community Affairs certifies that the corporation is in compliance with the multiyear contract. Moneys transferred from the SHTF by the state's Chief Financial Officer must be deposited by the corporation into the State Housing Fund to be used as required under chapter 420.

The Housing Trust Funds receive up to $243 million each year in documentary stamp tax revenues, of which $172.5 million is credited to the Local Government Housing Trust Fund and $70.5 million is credited to the State Housing Trust fund to be used by the corporation to fund the State Apartment Incentive Loan (SAIL) program, the Homeownership Assistance Program, the Predevelopment Loan Program, as well as other state housing programs. The $243 million cap amount may increase due to revenue growth.

State Housing Fund (s. 420.0005, F.S.) - In 1997, the Legislature authorized the Florida Housing Finance Corporation to create the State Housing Fund (fund) as a separate fund established with a qualified depository[80] to be used to meet the purposes of chapter 420. The corporation may use up to 5 percent of moneys deposited into the fund for administrative and personnel expenses, and all loan repayments, penalties, and other fees and charges collected were to be credited in full to the program account within the fund from which the loan originated. Moneys in the fund which are not used by the corporation can be invested and interest on the investments is to be credited back to the fund.

Local Government Housing Trust Fund (s. 420.9079, F.S.) - The Local Government Housing Trust Fund (LGHTF) was created in 1992 to fund the State Housing Initiatives Partnership Program (SHIP) for the purpose of

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

providing funding to local governments as an incentive to create partnerships to produce and preserve affordable housing. The LGHTF receives up to $172.5 million in documentary stamp tax revenues each year and unused moneys can be invested with interest being credited to the trust fund. The corporation may not use moneys in the LGHTF for administrative or personnel costs except that one quarter of one percent of the annual SHIP appropriation may be used by the corporation for monitoring local government compliance with program requirements. A portion of the LGHTF dollars are transferred to the Department of Children and Families to fund homeless programs. The Legislature has also appropriated funds from the LGHTF for the Community Workforce Housing Innovation Pilot Program and the Preservation Pilot Program.

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

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

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

Florida Homeownership Assistance Fund (s. 420.5088(4), F.S.) - The Florida Homeownership Assistance Trust Fund was created in the State Treasury in 1988 to fund the Florida Homeownership Assistance Program using moneys appropriated to the State Housing Trust Fund for purposes of homeownership assistance. In 1993, existing funds in the Affordable Housing Demonstration Loan Program and the Affordable Housing Trust Fund were transferred to the Homeownership Assistance Trust Fund. No more than 1/5 of the funds in the trust fund could be made available to provide loan loss insurance reserve funds to promote homeownership for persons meeting certain income restrictions. In 1997, the Legislature authorized the corporation to create the Florida Homeownership Assistance Fund in a qualified depository and transferred all funds remaining in the Florida Homeownership Assistance Trust Fund. The new fund receives moneys from the State Housing Trust Fund; and all unencumbered funds, loan repayments, and proceeds from the sale of any property originally funded from the Homeownership Assistance Fund. Expenditures are not required to be included in the corporation's annual legislative budget request and are not subject to appropriation by the Legislature.

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

Summary

The sunset review of the Department of Community Affairs must be completed by July 2010. The first half of the sunset review was completed during the 2008 interim and identified and evaluated the Department's divisions and programs, as well as the programs administered by the Division of Emergency Management, and the Florida Housing Finance Corporation. This report concludes the review, updates programmatic issues, performance measures and unit cost data, and provides updates on the federal stimulus packages.

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

Recommendations and Issues

With respect to the Department of Community Affairs, the professional staff of the Senate's Community Affairs Committee recommends the following:

- The Department of Community Affairs should be retained for the following reasons:
    - The Department is the conduit for federal funding through the stimulus packages and 93 percent of the Department's funds come from annual federal appropriations for various federal programs.

    - The Department is designated by law as the state's land planning agency. As such, the Department's Division of Community Planning works with local governments to implement and administer our growth management laws and associated programs and services such as Local Government Comprehensive Planning, Areas of Critical State Concern, Rural Land Stewardship Areas, Developments of Regional Impact, Option Sector Planning, Springs Protection, Military Base Compatibility Planning, and planning support for long-term recovery from disasters. Community planning programs and initiatives strengthen the ability of Florida's 67 counties and more than 400 cities to adopt local comprehensive plans that guide growth and development.

    - In addition, the Florida Legislature has made revisions to the Growth Management Act in each of the last five years. Most recently, the Legislature enacted the "Community Redevelopment Act," which provides significant changes to the Growth Management Act of 1985. The Department has the responsibility and the expertise necessary to implement legislative directives. Any disruption in the Department's review and approval of local government comprehensive plan amendments may lead to uncertainty, costs, and delays for development projects that provide economic stimulus and jobs.

- The committee may want to consider a review of the Waterfronts Florida Partnership Program, the Stan Mayfield Working Waterfronts Program, and the revisions contained in amendment 6 to the State Constitution, relating to classification of Working Waterfront property, which was adopted in November 2008, to delete any duplicative provisions and to ensure compatibility among the programs.

- The committee may want to consider granting the Department the authority to impose fees for review of comprehensive plan amendments and proposed revived homeowners' covenants and restrictions.

- The committee may consider deleting references to Front Porch Florida, the Low-Income Emergency Home Repair Program, and the Community Workforce Housing Innovation Pilot Program once all CWHIP contracts are closed.

With respect to the Florida Housing Finance Corporation, the professional staff of the Senate's Community Affairs Committee recommends the following:

- The Florida Housing Finance Corporation should be retained.

With respect to the state's Division of Emergency Management, the professional staff of the Senate's Military Affairs and Domestic Security Committee recommends retention of the division, and identified the following issues relating to the division:

- DEM operates as an independent budget entity reporting directly to the Governor for operational matters relating to its emergency management mission. DEM is directed to enter into a support agreement with DCA for certain services. It is uncertain whether this support arrangement provides the most effective service to the division.
- There are numerous references throughout Florida Statutes that assign responsibilities to DCA but are in fact the functional responsibility of DEM. Given the evolution of DEM as an independent entity reporting to the Governor, review of these references is in order.
- DEM is currently operating without certified and validated performance measures. The division is in the process of developing new performance measures and standards.
- DEM is working to close out a backlog of Public Assistance projects. It is possible that the addition of an internal audit function for DEM might improve program oversight and management.

The professional staff of the Joint Legislative Sunset Committee is reviewing the following issues:

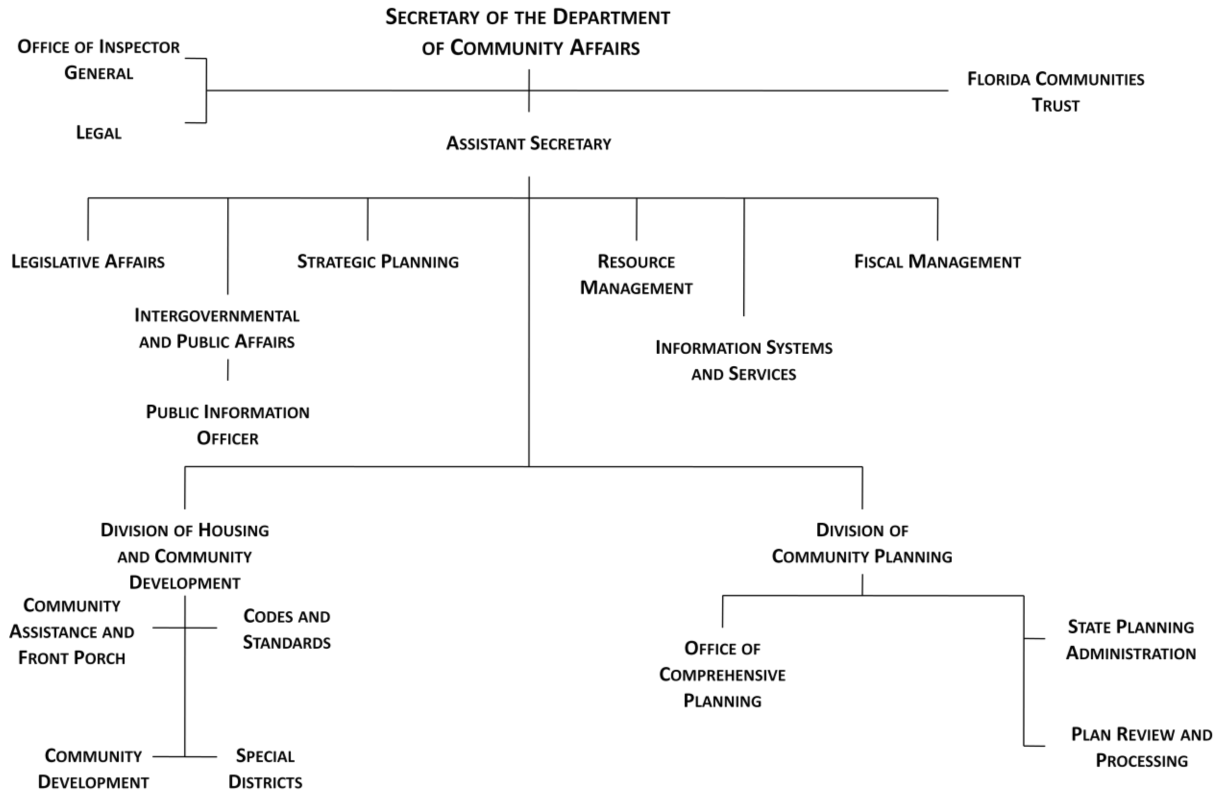
- Should the Community Development Block Grant Program and the Community Services Block Grant Program at the Department of Community Affairs be transferred to the Department of Children and Family Services?
  - The idea behind the transfer is that these are service oriented programs for income-challenged persons and a service-oriented agency may be a more appropriate location for the programs.
- Should the Florida Communities Trust Program, including the Stan Mayfield Working Waterfronts Program, be transferred to the Division of State Lands?
  - The idea behind the transfer is that only one agency should be in charge of land acquisition for the state. However, the Department of Agriculture and Consumer Services and the Florida Fish and Wildlife Conservation Program both have land acquisition programs which use Florida Forever bond proceeds distributed by the Division of State Lands.
- Should the Department's Homeowners' Covenants Revitalization duties relating to the revitalization of covenants extinguished by the Florida Marketable Record Titles Act and the Manufactured Building Program be transferred to the Department of Business & Professional Regulation and the Department of Highway Safety and Motor Vehicles, respectively?
  - The idea behind the transfer is that DBPR regulates Homeowners' Associations and DHSMV regulates the installation of mobile/manufactured housing.
- Is the Division of Community Planning redundant when we have regional planning councils?
- Does the Century Commission for a Sustainable Florida duplicate the long range planning done by DEP, the water management districts, and other state agencies?
- The performance of the mitigation efforts of the Division of Emergency Management and the Department of Financial Services to determine which programs have produced the best outcomes.

The Joint Legislative Sunset Committee is expected to complete its review of the Department of Community Affairs, the Division of Emergency Management, and the Florida Housing Finance Corporation in February 2010, and will present its findings and recommendations to the Senate Community Affairs Committee and the Senate Military Affairs and Domestic Security Committee for consideration by members of both committees.

Conclusion

Committee staff recommends that the Senate create two bills for consideration in the 2010 session: one to reenact the Department of Community Affairs, the Division of Emergency Management, and the Florida Housing Finance Corporation and one to revise programs and issues addressed above. Retaining the Department of Community Affairs should provide continuity in Florida's growth management scheme at a time when local governments are adjusting to policy changes created in recent legislation. In addition, the Department of Community Affairs serves as an effective conduit for a significant amount of federal funding. Removing unfunded or defunct programs will help to eliminate confusion regarding the responsibilities of the Department.

FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS – Organizational Chart



COMMUNITY DEVELOPMENT BLOCK GRANT (2) FUNDING
American Recovery and Reinvestment Act of 2009

The American Recovery and Reinvestment Act of 2009 provided $1 billion for approximately 1,200 state and local governments to invest in their own community development priorities through the Community Block Development Grant program. Most local governments use the CDBG grants to rehabilitate affordable housing and improve key public facilities thereby stabilizing communities and creating jobs locally. Florida’s allocation of $35.1 million was distributed by the federal government directly to the CDBG entitlement communities under the CDBG formula.

CDBG2 – ARRA	
Local Government Grantee Name	**Amount**
Boca Raton	$129,352
Boynton Beach	$142,780
Bradenton	$129,679
Brevard County	$421,278
Broward County	$1,033,000
Cape Coral	$186,513
Clearwater	$251,549
Cocoa	$61,643
Coconut Creek	$76,293
Naples	$631,283
Coral Springs	$245,955
Davie	$171,629
Daytona Beach	$220,550
Deerfield Beach	$200,684
Delray Beach	$156,617
Deltona	$135,554
Escambia County	$559,361
Ft. Pierce	$184,499
Ft. Walton Beach	$38,366
Ft. Lauderdale	$557,744
Ft. Myers	$200,986
Gainesville	$371,003
Hialeah	$1,134,113
Hillsborough County	$1,607,994
Hollywood	$409,177
Homestead	$212,274
Jacksonville-Duval County	$1,817,335
Kissimmee	$165,274
Lake County	$263,083
Lakeland	$207,943
Largo	$126,511
Lauderhill	$219,266
Lee County	$576,497
Manatee County	$415,584
Margate	$112,890

CDBG2 – ARRA	
Local Government Grantee Name	**Amount**
Marion County	$475,454
Melbourne	$150,772
Miami-Dade County	$4,884,311
Miami	$2,218,946
Miami Beach	$467,896
Miami Gardens	$371,207
Miramar	$209,883
North Miami	$332,001
Ocala	$130,577
Orange County	$1,650,606
Orlando	$602,733
Palm Bay	$166,081
Palm Beach County	$1,846,758
Panama City	$107,827
Pasco County	$690,059
Pembroke Pines	$240,099
Pensacola	$260,376
Pinellas County	$809,226
Plantation	$139,863
Polk County	$799,727
Pompano Beach	$332,012
Port Orange	$77,009
Port St. Lucie	$183,507
Punta Gorda	$21,877
Sarasota	$151,705
Sarasota County	$380,487
Seminole County	$648,202
St. Petersburg	$598,343
Sunrise	$198,522
Tallahassee	$512,812
Tamarac	$113,751
Tampa	$1,006,016
Titusville	$91,178
Venice	$24,506
Volusia County	$526,815
West Palm Beach	$295,501
Winter Haven	$73,147
Total	**$35,164,051**

Florida Homeownership Opportunity Program (FL HOP) Progress Report (As of September 30, 2009)*

Local Government	Funds Distributed to Local Governments by 9/30/2009	Number of Applications	Funds Expended	# of loans Closed	Funds Encumbered	# of loans Approved
	Local Program Status Report (9/30/2009)			Problems and Additional Comments from Local Programs		
Alachua County	$ 54,869	4	$ –	0	$ 32,000	4
	Cycle opens on Oct. 1			Program highly advertised. Anticipate funds moving rapidly once cycle opens		
Baker County	$ 100,041		$ 8,300	1	$ –	0
				Recipients cannot afford a 1st mortgage in addition to repayment of the FHOP funds.		
Bay County	$ 77,912	19	$ –	0	$ 152,000	19
	Good progress			Not enough subsidy for Low Income; Moderate Income want to keep tax credit.		
Brevard County	$ 92,928	17	$ –	0	$ 64,000	8
Broward County	$ 82,952	1	$ –	0	$ 6,000	1
	Lots of inquiries			Lenders are sending note/mortgages documents from the county to their corporate offices for review and approval of FHOP as a second mortgage.		
Charlotte County	$ 89,386		$ –	0	$ –	0
	10 Applicants are income certified. Waiting approval of 1st Mortgage			None at this time		
Citrus County	$ 100,041		$ –	0	$ 29,400	4
	We have 5 new applicants that are eligible, 3 of them preapproved by lenders, all are seeking homes to buy and an additional 2 applicants have appointments with us. Receiving numerous calls every day from individuals and Realtors.			Funding is insufficient for low income individuals		
City of Cape Coral	$ 47,310	2	$ –	0	$ –	0
	Application deadline is 09/28/09. Can revisit after deadline					
City of Daytona Beach	$ 19,940	0	$ –	0	$ –	0
City of Hollywood	$ 31,775	2	$ –	0	$ –	0
City of Lakeland	$ 27,233	4	$ –	0	$ –	0
City of Ocala	$ 20,279	0	$ –	0	$ –	0
				Lots of inquiries but no Applicants		
City of Orlando	$ 56,663		$ –	0	$ –	0
	Progress is slow					
City of Panama City	$ 22,129	5	$ –	0	$ 40,000	5
				Not enough subsidy for Low Income; Moderate Income want to keep tax credit.		
City of Port St Lucie	$ 64,411	37	$ 6,000	1	$ 152,000	19
	Good progress. Waiting on the rest of the funds from the State.			Would have been better served by allowing use of funds for rehab/foreclosure		
City of St Petersburg	$ 63,429		$ –	0	$ –	0
				Not able to attract lenders		
City of Tallahassee	$ 72,749	5	$ –	0	$ 40,000	5
	5 Applications approved.					
City of Tamarac	$ 13,272	4	$ –	0	$ –	0

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Local Government	Funds Distributed to Local Governments by 9/30/2009	Number of Applications	Funds Expended	# of loans Closed	Funds Encumbered	# of loans Approved
	Local Program Status Report (9/30/2009)			Problems and Additional Comments from Local Programs		
				Impossible to approve, execute and close by current deadline (Nov 30)		
City of Tampa	$ 80,763		$ –	0	$ –	0
				$8,000 is not enough for most prospective buyers.		
City of W. Palm Beach	$ 24,312		$ –	7	$ –	0
				Promoting redeveloped targeted areas funded through NSP for purchase to qualified applicants. The only challenge is the time and deadlines.		
Clay County	$ 100,041	27	$ –	0	$ 24,000	3
Collier County	$ 115,072		$ –	0	$ –	0
	We are making good progress. Advertising and promotional materials have been developed to assist clients in choosing the affordable housing program that is right for them.			We are concerned that recipients will not use their tax refund to reimburse the program which is the initial intent of the program, although funding is secured through a loan if not repaid within FHOP timeline.		
Columbia County	$ 100,041	8	$ –	0	$ –	0
	Processing Applications			None at this time		
Desoto County	$ 100,041		$ –	0	$ –	0
	Getting word out to lenders and realtors			40 signed up for Homebuyer Education class. Anticipate funding moving quickly once class complete.		
Dixie County	$ 100,041		$ –	0	$ –	0
				Only had 1 inquiry; met with local banks but they haven't had any referrals either		
Duval County	$ 230,431	92	$ 602,849	75	$ 203,330	25
	This jurisdiction did not place any criteria that would assist applicants within a certain income range; however, inclusive or our aggressive marketing, roughly 4% of those assisted were above the traditional 120% AMI.			The biggest challenge was the small pool of funding.		
Glades County	$ 100,041	5	$ –	0	$ 16,000	2
	Created a SHIP/FHOP brochure & flyer to share with potential clients, realtors, local lenders and builders. Phone inquiries.			Not enough subsidy, SHIP funding provided up to 30K; folks don't want to pay it back		
Hardee County	$ 100,041	7	$ 8,000	1	$ 8,000	1
				8K is not enough subsidy. Foreclosures are still high and community is more in need of rehab, both for recipient and economic boost		
Hernando County	$ 100,041		$ –	0	$ 24,000	3
				Not at this time		
Highlands County	$ 100,041		$ –	0	$ –	0
				Had to revise mortgage note to comply with HUD guidelines in reference to the payback.		
Hillsborough County	$ 204,922		$ –	0	$ –	0
	We have not used any funds to date. The program; however, is being advertised and we will begin accepting applications on October 8th. We had a meeting w/ lenders and realtors.			None yet		
Indian River County	$ 100,041		$ –	0	$ –	0
				Took a while for lenders to approve program but now have one lender on board and a 2nd pending		
Jefferson County	$ 100,041	0	$ –	0	$ –	0
	No applicants yet			None at this time		

Florida Homeownership Opportunity Program (FL HOP) Progress Report (As of September 30, 2009)*

Local Government	Funds Distributed to Local Governments by 9/30/2009	Number of Applications	Funds Expended	# of loans Closed	Funds Encumbered	# of loans Approved
	Local Program Status Report (9/30/2009)			Problems and Additional Comments from Local Programs		
Lafayette County	$ 100,041	0	$ –	0	$ –	0
	No applicants yet			None at this time		
Lake County	$ 115,002	19	$ 16	0	$ 48,000	6
	Yes As of 9/1/09 we have received 14 applications. 7 of the 14 applications have received Commitment Letters; 2 are closing in early Oct. – see above; 3 of the remaining 7 applicants are income eligible and will be receiving their Commitment Letters very shortly; 4 of the remaining 7 applicants are new applications and are in the certification process.			All of our applicants have been extremely well prepared. Several already had signed contracts ready to give us for closing preparation.		
Lee County	$ 111,083	13	$ 6,500	1	$ 21,000	3
	Good progress			None at this time		
Levy County	$ 100,041		$ –	0	$ –	0
	Currently have a waiting list			Need bigger subsidy for most applicants.		
Madison County	$ 100,041	3	$ 4,000	1	$ –	0
	1 participant			None at this time		
Marion County	$ 102,397	4	$ –	0	$ –	0
	Actively prompting with lenders and realtors			County is trying to actively promote FHOP w/lenders, realtors, & County administration		
Miami-Dade County	$ 209,309			0	$ –	0
	Over 100 inquiries. Will begin taking applications on 10/5/09			None so far		
Nassau County	$ 100,041	28	$ 24,000	3	$ 64,000	8
	Good progress			Impeding deadline has made people hesitant to apply and have possible problems in the end. Also, accounting and bookkeeping issues prevent checks from being issued before the new year		
Okaloosa County/ Ft Walton	$ 89,916	6	$ –	0	$ –	0
	Lots of inquiries					
Okeechobee County	$ 100,041	11	$ –	0	$ 40,000	5
	8 pending closing			Getting lots of inquiries but lenders hesitant to allow second mortgage with FHOP repayment requirements. Working with lenders to address this issue.		
Orange County	$ 213,161	16	$ 96,000	12	$ 32,000	4
				Wells Fargo Home Mortgage sent a letter saying that it could not use Orange County FOP funds based on the Mortgagee Letter 2009-15. Section II states that secondary financing may not require a balloon payment before 10 years. Our note requires payment in full way before 10 years.		
Osceola County/ Kissimmee	$ 87,197	8	$ –	0	$ 24,000	3
				Lenders not wanting to accept the advanced credit for down payment assistance		
Palm Beach County	$ 228,520		$ –	0	$ 24,000	3
	Will close on first of the three loans next week			The real problem seems to be that lender requirements are too onerous (20% down payment). Most home buyers cannot afford such a large down payment, especially when there is no SHIP subsidy money.		
Pasco County	$ 143,204	11	$ –	4	$ 50,000	6

Florida Homeownership Opportunity Program (FL HOP) Progress Report (As of September 30, 2009)*

Local Government	Funds Distributed to Local Governments by 9/30/2009	Number of Applications	Funds Expended	# of loans Closed	Funds Encumbered	# of loans Approved
	Local Program Status Report (9/30/2009)			Problems and Additional Comments from Local Programs		
	Wish we were moving faster. We are getting there			The county would have preferred the following: exemption of FHOP from having to amend the LHAPs and advertising rules; not require payback (that is causing problems with FHA); and not worry about serving just "first time homebuyers"		
Polk County	$ 133,389	52	$ –	0	$ 16,000	2
	9 applications in process			No closings yet-two will close within 7-10 days. We are going to close most of them in Nov.		
Putnam County	$ 100,041	5	$ –	0	$ –	0
				We don't see how these folks can close by Nov. 30		
Sarasota	$ 134,633	13	$ 25,300	4	$ 56,400	7
				There is a reluctance to go through the paperwork for an $8,000 loan that will be repaid in a few months. Lenders are also saying that applicants are applying for the refund in advance of the closing, and because the refund comes quickly they are able to obtain a loan from family members.		
Seminole County	$ 141,026	32	$ –	0	$ 80,000	10
				None		
St. Johns County	$ 100,041	20	$ –	0	$ 159,490	20
	Lots of inquiries			Homebuyers do not understand the process. They want funds quicker than we can release them.		
St Lucie County	$ 30,372	10	$ –	0	$ 80,000	10
	Applicants have until the end of October to contract for purchase			None		
Sumter County	$ 100,041	1	$ –	0	$ –	0
				Applicants do not want to pay back funds; only 1 applicant so far		
Suwannee County	$ 100,041	5	$ 8,000	1	$ –	0
	1 participant			None at this time		
Taylor County	$ 100,041	0	$ –	0	$ –	0
	No applicants yet			None at this time		
Union County	$ 100,041	3	$ –	0	$ –	0
	Processing Applications			None at this time		
Volusia County	$ 92,986	4	$ –	0	$ 32,000	4
				Applicants do not want to pay back loan; more subsidy needed. Having a problem getting banks to review and approve the program.		
Total	**$ 5,625,875**	**503**	**$ 820,965**	**110**	**$ 1,517,620**	**190**

* This report is based on comments received by FHFC from Local Government SHIP staff via e-mail survey. This report does not include local governments receiving FL HOP funds that had no results to report as of September 30, 2009. As of September 30, 2009, $17,563,725 was distributed statewide.