

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1456  
 SPONSOR: Senator Constantine  
 SUBJECT: Affordable Housing  
 DATE: February 21, 2002      REVISED: 02/26/02 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bowman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/2 amendments</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/2 amendments</u>
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Senate Bill 1456 makes a number of changes to programs administered by the Florida Housing Finance Corporation (FHFC) and makes several changes directed at raising the maximum income range available for several programs of the FHFC to encourage the construction of affordable housing in Monroe County.

The bill provides for expedited processing of environmental resource permits for affordable housing projects, and addresses limitations on residential building permits in areas of critical state concern.

The bill authorizes FHFC to establish subsidiary corporations and conduct and fund demonstration programs and projects. The FHFC is authorized to establish a procedure for evaluating, scoring, and competitively ranking applications for private activity bond allocation for multifamily projects, and is authorized to establish terms of mortgage loans.

The bill provides for zero to 3 percent interest rates for State Apartment Incentive Loan (SAIL) program loans for projects with an 80 percent occupancy of commercial fishing workers or the homeless. The bill specifies a project is eligible for SAIL funds if it is located in a county that includes, or has included within the previous five years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing, and 100 percent of the units in the project are set aside for persons or families who have incomes below 120 percent of median income. This provision would expire July 1, 2005. Currently, only Monroe County meets this requirement. The bill provides for Predevelopment Loan Program (PLP) funding to be made on a first-come first-served basis, and authorizes the FHFC to establish criteria for determining threshold compliance with Corporation objectives.

Under the State Housing Incentive Partnership (SHIP) Program, the bill authorizes a city, county, or local housing financing authority to rely on monitoring and determination of tenant eligibility conducted by another governmental entity, and exempts any loan or grant in the original amount of \$3,000 or less from annual monitoring and determination of tenant eligibility requirements. The bill also revises the limitation on the sales price of eligible housing. The bill exempts from the SHIP set-aside requirements for very-low-income and low-income households a county or eligible municipality that includes, or has included within the previous five years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing. This exemption would expire July 1, 2005. Monroe County is the only local government currently qualifying for this exemption. Finally, the bill requires local government SHIP reports to include the average area purchase price of single-family units rather than the average sales price or value of a single-family unit.

This bill amends s. 373.4141, 380.0552, 420.507, 420.508, 420.5087, 420.526, 420.527, and 420.9075, of the Florida Statutes.

## II. Present Situation:

### *Management and Storage of Surface Waters and Environmental Resource Permitting*

Section 373.4141, F.S., governs the application procedure for and processing of management and storage of surface water and environmental resource permits issued by the water management districts and Department of Environmental Protection. The section requires the department or water management district to review the permit application within 30 days, and to submit a request for additional information, if necessary. Within 30 days of receipt of the additional information, the department or water management district must review it and may request only such additional information as is necessary to clarify the additional information. The department or water management district must approve or deny the permit within 90 days of receipt of the original application, the last item of timely requested information, or the applicant's written request to begin processing the permit application.

### *The Florida Keys Area of Critical State Concern*

Section 380.0552, F.S., governs the administration of the Florida Keys Area of Critical State Concern which was created by the Administration Commission pursuant to chapter 27F-8, Florida Administrative Code. Section 380.0552(9), F.S., provides that while any land development regulation or element of a local comprehensive plan in the Florida Keys may be enacted, amended or rescinded by the local government, the regulation or element does not become effective until reviewed and approved by the Department of Community Affairs. Any local development regulation or comprehensive plan must be in compliance with the principles for guiding development set forth in s. 380.0552(7), F.S.

Monroe County adopted a "Rate of Growth Ordinance" (ROGO) by Ordinance 47-1999 to allocate the limited number of dwelling units available annually primarily based on the county's ability to maintain a reasonable hurricane evacuation time. A residential ROGO allocation is defined in the Monroe County Code as "the maximum number of dwelling units for which building permits may be issued in a given time period." Under the ordinance, no building permit will be issued unless the dwelling unit has received a residential dwelling unit allocation award

or is determined to be exempt. Under Section 9.5-122, the number of residential ROGO allocations available in each subarea of unincorporated Monroe County equaled 221, divided among three subareas; the Upper Keys; Middle Keys; and Lower Keys.

Under the Monroe County ROGO Ordinance there are several provisions for rolling over leftover allocations to the next ROGO year. For example, Section 9.5-122(c)(2) requires that “any portion of the twenty percent allocation not used for affordable housing at the end of the year shall be made available for affordable housing for the next ROGO year.” Section 9.5-122(c)(6) requires “any portion of the residential ROGO allocations not used shall be retained and made available for affordable housing from ROGO year to ROGO year.”

In 1996, the Administration Commission adopted Rule 28-20.100(35), Florida Administration Code, (F.A.C.), Policy 101.2.13, requiring Monroe to establish an interim Permit Allocation System that supercedes the existing Permit Allocation System adopted by Monroe County, which must remain in place until “..Monroe County determines its future growth capacity based on hurricane evacuation, public safety and environmental needs including water quality and habitat protection, and amends its plan consistent with such determination...” based on a work program requiring a carrying capacity study and preparing and implementing a Wastewater Master Plan. In addition, the policy imposes a minimum and maximum number of residential permits that can be issued under the Rate of Growth Ordinance, and imposes an additional requirement that the number of permit issued for new residential development is linked to the number of nutrient reduction credits earned within the same unincorporated ROGO area. For fiscal year 2001-2002, the number of permits issued the Permit Allocation System allows a minimum of 88 new residential permits and a maximum of 182 residential units. However, in order to use these permits requires the availability of an equivalent number of nutrient reduction credits. Beginning in year six of the program, (FY 2002-2003), the interim permit allocation system must limit the number of permits available for residential development to the number of nutrient reduction credits earned in the same ROGO area.

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

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

#### *Affordable Housing in Monroe County*

Monroe County is located within an area of critical state concern, pursuant to section 380.0552, F.S., and is currently experiencing a critical shortage of affordable housing. This has been an ongoing problem in the Keys for many years. The Legislature recognized

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

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

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

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

A blue ribbon commission created by the Monroe County Board of County Commissioners, the Blue Ribbon Committee on Affordable Housing, issued a report making a number of recommendations regarding how state law and the rules of the Housing Finance Corporation

could be changed to encourage the construction of affordable housing in Monroe County. The report is available by contacting the Monroe County Board of County Commissioners.

#### *Affordable Housing in the Keys Summits*

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

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

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

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

#### *Florida Housing Finance Corporation*

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

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

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

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

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

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

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

#### *Housing Program Revenues and Distributions*

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

The documentary stamp tax is imposed on deeds and other documents related to real property at a rate of 70 cents per \$100, and on corporate shares, certificates of indebtedness, promissory notes, wage assignments and retail charge account agreements at a rate of 35 cents per \$100. The following percentages of doc stamp revenues are obligated to affordable housing: 4.8475 percent to the State Housing Trust Fund and 11.3425 percent to the Local Government Housing Trust Fund. The Sadowski Act documentary stamp tax revenues are deposited in the State Housing Trust Fund and the Local Government Housing Trust Fund. Due to the timing of application

cycles, credit underwriting and construction schedules, funds may be allocated in one year, but not necessarily expended during the same year. The FHFC receives budget authority from the State Housing Trust Fund in one appropriation category and the FHFC Board determines how much funding should be distributed to each of the state programs (SAIL, HAP, HOME, PLP, and Guarantee). The General Appropriations Act provides specific distributions from the Local Government Housing Trust Fund.

#### *Actual Housing Program Expenditures and Performance Results*

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

#### *Multifamily and Single Family Mortgage Revenue Bond Programs*

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

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

#### *State Apartment Incentive Loan Program (SAIL)*

Section 420.5087, F.S., creates the State Apartment Incentive Loan Program (SAIL). The SAIL program is intended to stimulate affordable rental housing development by providing low interest rate second mortgages to developers. The program is designed to bridge the gap between a developer's primary financing and equity resources and the total project cost. The stated statutory intent of the program is to provide housing affordable to very-low-income persons (50% of median area income). The section provides for funds to be distributed over successive 3-year periods in a manner that meets the needs and demands for very-low-income housing throughout the state. Pursuant to s. 420.5087(1), F.S., at least 10 percent of program funds distributed during a 3-year period must be allocated to the following categories of counties:

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

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

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

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

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

#### *Project Eligibility*

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

(a) The sponsor uses tax-exempt financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes which meet the income eligibility requirements of s. 8 of the United States Housing Act of 1937, as amended;

(b) The sponsor uses taxable financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, which shall be adjusted by the corporation for family size; or

(c) The sponsor uses the federal low-income housing tax credit, and the project meets the tenant income eligibility requirements of s. 42 of the Internal Revenue Code of 1986, as amended.

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

#### *Predevelopment Loan Program*

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

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

#### *State Housing Initiatives Partnership Program (SHIP)*

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

#### *Eligibility*

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

Under SHIP, the sales price or value of new or existing eligible housing may not exceed 90 percent of the average area purchase price in the area where the eligible housing is located, which housing was purchased during the most recent 12 month period for which sufficient

statistical information is available or, as established by the U.S. Department of Treasury (s. 20.9075(4)(c), F.S.).

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

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

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

#### *Monitoring*

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

#### *Reporting Requirements*

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

### III. Effect of Proposed Changes:

**Section 1** amends s. 373.4141, F.S., which governs surface water and wetland permits issued under part IV of chapter 373 to require that permits necessary for affordable housing projects must be expedited to a greater degree than other projects.

**Section 2** amends s. 380.0552, F.S., to change the administration of the rate-of-growth ordinance adopted by Monroe County to limit the number of units of residential development that can be permitted in a given year by requiring that any units not used during the year for which a ROGO unit cap applies, to be carried over to the subsequent year.

**Section 3** makes several changes to s. 420.507, F.S., the powers of the Florida Housing Finance Corporation. First, the bill amends subsection 22 of s. 420.507, F.S., to provide that in making mortgage loans under the State Apartment Incentive Loan Program (SAIL), FHFC can collect or defer interest on SAIL loans contingent on a development's available cash flow. In addition, commercial fishing workers or the homeless are added to farmworkers as the type of residents for whom 0 to 3 percent interest loans are available for sponsors of projects that maintain an 80 percent occupancy to these three types of residents: farmworkers, commercial fishing workers and the homeless.

A new subsection (40) is added to authorize the FHFC to create subsidiary corporations for the purpose of taking title to and managing and disposing of property acquired by the corporation. These subsidiary corporations are public corporations wholly owned by FHFC, are authorized to own, mortgage, and sell property on the same basis as FHFC. In addition, such a subsidiary corporation is deemed a corporation acting as agents of the state, for purposes of sovereign immunity as defined in s. 768.28, F.S., to the same extent as the FHFC.

Finally, a new subsection (41) is created to authorize the FHFC to conduct and fund demonstration projects that further the statutory purposes of the corporation. These projects must be funded outside of money deposited in the state housing trust fund.

**Section 4** amends s. 420.508, F.S., regarding the special powers of the FHFC to authorize the corporation to adopt rules establishing a procedure for competitively ranking applications for private activity bond allocations in connection with multifamily projects financed under part V, of ch. 420, F.S.

**Section 5** amends s. 420.5087, F.S., the State Apartment Incentive Loan Program, to allow SAIL funds to be used for projects located in Monroe County when 100 percent of the units in the project are set aside for persons or families who have incomes below 120 percent of the state or local median income, whichever is higher, adjusted for family size. This authority to grant SAIL loans to these projects expires on July 1, 2005.

**Section 6** amends s. 420.526, F.S., regarding the Predevelopment Loan Program to provide that funds available under the program must be made available on a first-come, first-served basis unless otherwise established by rule by the FHFC. First priority funding under the program is limited to sponsors of farmworker housing.

**Section 7** amends s. 420.527, F.S., regarding the application criteria the FHFC applies to selecting affordable housing projects for funding under the Predevelopment Loan Program Act to delete subsection (2), which provides for applications proposing the linkage of predevelopment funds with other financing offered through the corporation to receive preference in funding. The section also deletes subsection (3), which requires the FHFC to publish a notice of fund availability.

The bill changes the review process from a process based on the competitive ranking of applications by a review committee, to a process where the corporation determines threshold compliance with corporations' objectives, and then makes funding available on a first-come first-served basis. Final decisions on funding must be approved by the corporation board, which determines the tentative loan or grant amount available to each program participant.

**Section 8** amends s. 420.9075, F.S., regarding local housing assistance plans to allow other local governments to use another governmental entity, not just the FHFC, to annually monitor and determine tenant eligibility for the municipality, county or local financing authority responsible for implementing the local housing assistance plan. The bill adds an exception to the monitoring requirement that any loan or grant of \$3,000 or less is not subject to the annual monitoring and determination-of-tenant-eligibility requirements.

Subsection (4) is amended to allow more flexibility in determining average area purchase price for determining eligible housing. While the original language required that the sales price of new or existing eligible housing may not exceed 90 percent of the average area purchase price in the statistical area in which the eligible housing is located, based on housing purchased during the most recent 12 month period for which data is available, the amended language allows the average area purchase price to be calculated based on any 12-month period beginning not earlier than the fourth calendar year prior to the year the award occurs.

Subsection (4)(d) is amended to restrict the application of a requirement that at least 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to very-low-income persons in an area of critical state concern for which the Legislature has declared its intent to provide affordable housing (Monroe County). In such a county, the 30 percent limitation would apply until July 1, 2005.

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

**Section 9** provides that the bill is effective upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

Section 8 of the bill amends paragraph (e) of subsection (3) of s. 420.9075, F.S., relating to SHIP local housing assistance plans, to authorize a city, county, or local housing financing authority to rely on monitoring and determination of tenant eligibility conducted by another governmental entity to the extent the entity provides the same monitoring and determination. This provision may result in cost savings for local governments by reducing duplicative effort.

**VI. Technical Deficiencies:**

Section 2 regarding “any rate-of-growth ordinance adopted pursuant to this section” does not accurately describe the residential development unit allocation system that is currently in effect in Monroe County. The allocation system in effect was adopted by the Administration Commission as Rule 28-20.100(35), F.A.C., and controls over the Monroe County Rate of Growth Ordinance.

**VII. Related Issues:**

This requirement contained in Section 1 does not define what qualifies as an affordable housing project or define expedited in terms of the required processing time requirements imposed upon the water management districts or the Department of Environmental Protection.

There are several issues raised by language used in Section 2:

1. Presently, Policy 101.2.13 of Rule 28-20.100(35). F.A.C., supercedes the Monroe County ROGO ordinance. The language of the bill reference to the Rate of Growth Ordinance is unclear as to which set of rules is being changed by the bill, the Administration Commission Rule or the Monroe County Ordinance.
2. The Monroe County Ordinance currently provides for unused allocations to be rolled over to the subsequent year and allocated to affordable housing. The language of the bill would have the effect of superceding the limitation that the rollover is used for affordable housing.
3. The relationship between a rollover ROGO unit and the necessity of a nutrient allocation is not addressed.

Subsection (40) is silent on the applicability of ch. 119, F.S., regarding public records and ch. 286, F.S., relating to public meetings to any subsidiary corporations created by FHFC.

**VIII. Amendments:**

#1 by Governmental Oversight and Productivity:

Removes the provision providing for a July 1, 2005 repeal of an authorization of a project in an area of critical state concern.

#2 by Governmental Oversight and Productivity:

Removes the deferred application of the paragraph to counties or eligible cities.

#1 by Comprehensive Planning, Local and Military Affairs:

Deletes a provision in the bill providing that under any rate-of-growth ordinance adopted under the Florida Keys Area of Critical Concern designation, any units not used during the year for which the unit cap applies shall be carried over to the unit cap for the subsequent year.

#2 by Comprehensive Planning, Local and Military Affairs:

Provides that any subsidiary created by the FHFC shall be subject to chapters 119, 120, and 286 to the same extent as the corporation.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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