

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Governmental Oversight and Productivity Committee

BILL: CS/CS/SB 334

SPONSOR: Governmental Oversight and Productivity Committee, Commerce and Consumer Services Committee and Senator Saunders

SUBJECT: Public Housing

DATE: April 8, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
2.	<u>Gordon</u>	<u>Cooper</u>	<u>CM</u>	<u>Fav/CS</u>
3.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute for the committee substitute authorizes Florida's public housing authorities to create for-profit and not-for-profit business entities and to enter into public-private partnerships for the development of residential and non-residential projects. The bill will enable Florida's public housing agencies to participate in federal programs that encourage the establishment of mixed finance public housing projects.

This committee substitute for the committee substitute substantially amends the following sections of the Florida Statutes: 421.02, 421.08, 421.09, and 421.23.

This bill repeals section 421.54 of the Florida Statutes.

II. Present Situation:

Federal public housing programs are intended to provide decent and safe housing for eligible low-income families, the elderly, and persons with disabilities. The U.S. Department of Housing and Urban Development (HUD) administers federal aid to local public housing authorities (PHAs) that manage the housing for low-income residents. PHAs are typically municipal or county agencies created under state law to develop and manage public housing units for low-income families. PHAs that participate in the low-rent program contract with HUD to provide housing in exchange for federal grants and subsidies.

While HUD has a range of affordable housing initiatives, the department's public housing programs have focused on assisting low and very low income households. Historically, HUD has provided funding to local agencies to operate and repair low rent units through the Operating

Fund and the Capital Fund. The Operating Fund provides annual subsidies to housing agencies to make up the difference between the amount they collect in rent and the cost of operating the units. The Capital Fund provides grants to PHAs for the major repair and modernization of the units. Under HUD's tenant-based voucher (Section 8) program, eligible households select their own units in the private housing market and receive subsidies to cover part of the rent. Housing agencies that participate in the tenant-based program enter into contracts with HUD and receive funds to provide rent subsidies to the owners of private housing on behalf of the assisted households.

Public Housing Authorities in Florida - Florida has approximately 107 PHAs serving almost 300,000 low-income Floridians.¹ These individuals represent more than 115,000 households. Nearly 60 percent of the 42,000 public housing units in Florida are occupied by households in the extremely-low income group (annual incomes less than 30 percent of the area median income). Florida's PHAs currently provide Housing Choice Vouchers (Section 8 housing) to almost 73,000 households. More than 55,000 households are on waiting lists for residence in public housing units, and more than 80,000 households are on voucher waiting lists. Total expenditures by PHAs in Florida were more than \$819 million during federal fiscal year 2003.²

Chapter 421, F.S., governs the establishment and operation of PHAs in Florida. Local governments are authorized to establish PHAs as special districts.³ Section 421.02, F.S., provides a legislative declaration of necessity for public housing. Specifically, this section provides: "Slum areas in the state cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, through the operation of private enterprise, and that the construction of housing projects for persons of low income, as herein defined, would therefore not be competitive with private enterprise."

Pursuant to s. 421.08, F.S., PHAs are authorized to engage in a range of housing-related activities. For example, PHAs are authorized to acquire, lease, and operate housing projects, and to provide for the construction, reconstruction, improvement, alteration, or repair of housing projects. PHAs are also authorized to lease or rent any accommodations, lands, buildings, structures, or facilities contained in any housing project and, to establish and revise the rents or charges. Currently, PHAs are not specifically authorized to create a for-profit or not-for-profit corporation, limited liability company, or similar entity to develop and operate residential homes or nonresidential projects. Similarly, PHAs are prohibited from operating housing projects on a for profit basis or as a source of revenue for local governments.

Section 421.54, F.S., establishes certain restrictions on PHAs located in Orange and Seminole counties. This section provides that prior to the construction of new housing facilities in these counties, PHAs subject to this section must obtain the approval of the governing body of the area where the housing project is to be located at a public hearing. At the public hearing the names of the real parties in interest, directly or indirectly, in the proposed project must be disclosed. If the housing project is not approved by a majority vote of the governing body at the public hearing,

¹ *Public Housing Authorities in Florida: An Analysis of Selected Issues*, Shimberg Center for Affordable Housing, University of Florida, February 2004.

² *Ibid.*

³ Public housing authorities meet the definition of a special district as provided in s. 189.403, F.S.

the PHA may request the governing body to order a referendum election in the precinct where the proposed housing project is to be located.

Changing HUD Policies - In recent years, HUD has encouraged PHAs to adopt more entrepreneurial and innovative approaches to the delivery of low-income housing. For example, through the HOPE VI program and similar initiatives, HUD has endorsed a mixed-finance approach to the replacement of public housing developments.⁴ This approach emphasizes the formation of new public-private partnerships that leverage funds into the public housing process to create sustainable, mixed-income communities. These initiatives use a combination of private financing and public housing development funds to create public housing units owned by an entity other than a PHA. The public housing development funds may be provided to a third-party (non-PHA entity) so that it can develop and own the resulting public housing units.

According to a 2004 report issued by the Shimberg Center for Affordable Housing, nine Florida PHAs have received 13 HOPE VI grants since 1993. These grants totaled nearly \$250 million. Recipient PHAs have leveraged these grants with other public and private funds to bring the total investment in revitalization of distressed public housing and surrounding neighborhoods to more than \$657 million under this program.⁵

III. Effect of Proposed Changes:

Section 1 amends s. 421.02, F.S., to revise the legislative finding of necessity. In addition to eliminating antiquated language, the committee substitute removes a provision declaring that the construction of housing projects for persons of low income would not be competitive with private enterprise. The committee substitute modifies the intent provision to recognize that private enterprise has a role in revitalizing blighted areas.

Section 2 amends s. 421.08, F.S., to authorize PHAs to create for-profit and not-for-profit corporations, limited liability companies, and similar business entities in which the PHA may have an ownership or management interests in order to develop specified residential projects. These projects may include nonresidential uses and may utilize public and private funds to serve individuals and families who: (1) meet the applicable income requirements of the state and federal programs involved; (2) whose income does not exceed 150 percent of the applicable median income for the area; and (3) in the opinion of the PHA, lack sufficient income or assets to enable them to purchase or rent a decent, safe, and sanitary dwelling. The committee substitute also ratifies the existence of any existing for-profit or not-for-profit entity or public-private partnership entered into by a PHA prior to the effective date of the bill if the existence of that entity would be authorized under the terms of the bill. Further, the acts of those entities are validated and ratified under the bill if those acts would be lawful under the terms of the bill. Finally, the committee substitute clarifies that PHA governing boards may adopt policies for per diem, travel, and other expenses that are consistent with federal guidelines.

⁴ The HOPE VI program was established within HUD in 1993 and uses mixed-finance developments to address the revitalization of severely distressed public housing units.

⁵ *Public Housing Authorities in Florida: An Analysis of Selected Issues*, Shimberg Center for Affordable Housing, University of Florida, February 2004.

Section 3 amends s. 421.09, F.S., to specify that the not-for-profit status of PHAs does not prohibit or restrict the activities allowed by s. 421.08(8), F.S., which was created by the previous section of this committee substitute.

Section 4 amends s. 421.23, F.S., to provide that liabilities incurred by governing boards of PHAs may not be payable from the rents, fees, revenues, grants or subsidies paid by the federal government “unless such other funds are lawfully pledged by the authority’s governing board.”

Section 5 repeals s. 421.54, F.S., which establishes certain notice and approval requirements that are applicable to public housing projects in Orange and Seminole counties.

Section 6 provides the committee substitute shall take effect 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:

The committee substitute will create additional opportunities for private entities to enter into public-private partnerships with PHAs for the development of federally-funded residential and non-residential projects.

C. Government Sector Impact:

The committee substitute provides PHAs with the statutory authority to enter into new business entities and take advantage of federal programs that encourage the establishment of mixed finance public housing projects.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Page 3, line 10 of the committee substitute authorizes an unlimited number of residents “whose income does not exceed 150 percent of the applicable median income for the area.” Low-income housing is typically created for persons with *30-50 percent* of the median income for an area. Federal law, including IRS tax regulations, will govern and affect the percentage of residents who are within the 30-50 percent median income range by determining whether these projects are eligible for tax credits.

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

VIII. Summary of Amendments:

None.

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