



remaining in the Local Government Housing Trust Fund after required distributions have been made.

The CS substantially amends the following sections of Florida Statutes: 212.055, 420.503, 420.5087, 420.5095, 420.9071, 420.9072, 420.9073, 420.9075, 420.9076, 421.08, and 159.807, and repeals s. 420.9078.

The CS amends the following sections of Florida Statutes to correct cross-references: 212.08, 220.03, 220.183, and 624.5105.

## **II. Present Situation:**

### **Local Government Infrastructure Surtax**

The governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax must be pursuant to an ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county. The proceeds of the surtax and any accrued interest must be used to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. The funds cannot be used for operational expenses of any infrastructure, except that any county with a population of less than 75,000 that is required to close a landfill by order of the Department of Environmental Protection may use the funds for long-term maintenance costs associated with landfill closure.

Infrastructure is defined in statute as:

- Any fixed capital expenditure associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any land acquisition, land improvement, or design, including engineering costs.
- A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and any necessary equipment to outfit the vehicle that has a life expectancy of at least 5 years.
- Any expenditure for the construction, lease, maintenance of, or the provision of utilities or security for, facilities as defined in s. 29.008, F.S.
- Any fixed capital expenditure associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. 252.38, F.S.

## **Florida Housing Finance Corporation<sup>1</sup>**

The Florida Housing Finance Corporation (corporation), is the state entity primarily responsible for encouraging the construction of affordable housing in Florida. The corporation was created in 1997 when the Legislature enacted chapter 97-167, Laws of Florida, to streamline implementation of affordable housing programs in Florida by reconstituting the agency as the corporation. The corporation is a public corporation housed within the Department of Community Affairs (DCA) and is a separate budget entity not subject to control, supervision, or direction by the DCA. The corporation is governed by a board of directors comprised of the Secretary of DCA who serves as an ex officio voting member, and eight members appointed by the Governor subject to confirmation by the Senate.

The corporation operates several housing programs financed with state and federal dollars, including:

- The State Apartment Incentive Loan Program (SAIL) which annually provides low-interest loans on a competitive basis to affordable housing developers;
- The Florida Homeowner Assistance Program (HAP) which includes the First Time Homebuyer Program, the Down Payment Assistance Program, the Homeownership Pool Program, and the Mortgage Credit Certificate program;
- The Florida Affordable Housing Guarantee Program which encourages lenders to finance affordable housing by issuing guarantees on financing of affordable housing developments financed with mortgage revenue bonds;
- The State Housing Initiatives Partnership (SHIP) Program which provides funds to cities and counties as an incentive to create local housing partnerships and to preserve and expand production of affordable housing; and
- The Community Workforce Housing Innovation Pilot Program (CWHIP), which awards funds on a competitive basis to promote the creation of public-private partnerships to develop, finance and build workforce housing.

Affordable housing programs are funded from documentary stamp tax revenues which are distributed to the Local Government Housing Trust Fund and the State Housing Trust Fund. The 2005 Legislature capped the distribution of documentary stamp tax revenues to the housing trust funds at \$243 million effective July 1, 2007. Beginning July 1, 2008, a growth factor is added to the cap, if the level of documentary stamp tax revenues exceeds the prior year's level.

### **SAIL Program**

The SAIL program, created in s. 420.5087, F.S., authorizes the corporation to underwrite or make loans or loan guarantees if:

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

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<sup>1</sup> Formerly the Florida Housing Finance Agency

- The project sponsor uses taxable financing for the first mortgage and at least 20 percent of the units are set aside for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, adjust to family size;
- The project sponsor uses federal low-income housing tax credits and the projects meets the tenant eligibility requirements of s. 42 of the Internal Revenue Service code; or
- The project is located within a county that has an area that is, or within the previous 5 years was designated as an area of critical state concern for which the Legislature has declared its intent to provide affordable housing, and 100 percent of the units in the project are set side for persons or families with incomes below 120 percent of the state or local median income, whichever is higher.

Funds must be reserved for commercial fishing workers and farm workers, families, the elderly, and the homeless. Projects that maintain 80 percent of their units for commercial fishing workers and farm workers, and the homeless, are eligible to receive loans at a 1 percent interest rate. All other projects are eligible for loans at a 3 percent rate. Ten percent of funds set aside to house the elderly must be reserved to provide loans for existing building for the purpose of making health and preservation improvements, or sanitation repairs or improvements required by federal, state, or local law or regulation, or life safety or security-related repairs or improvements. Loans from the reserved funds may not exceed \$750,000 per housing community, and the sponsor of the housing community must commit to matching at least 5 percent of the loan amount needed to pay for the necessary repairs or improvements.

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

The SHIP program, created in part VII of chapter 420, provides funds to counties and eligible cities as an incentive for the creation of local housing partnerships, to expand the production of and preserve affordable housing, to further the housing element in a local government comprehensive plan specific to affordable housing, and to increase related employment. To be eligible to receive funding under the SHIP program, a county or an eligible city must submit a local housing assistance plan to the corporation, and within 12 months of adopting the plan, incorporate local housing incentive strategies. The local housing incentive strategies must be implemented by amending land development regulations or establishing local policies and procedures. Also, the local government must adopt an ordinance to create a local housing assistance trust fund, implement a local housing assistance plan through a local housing partnership, designate responsibility for the local housing assistance plan, and create an affordable housing advisory committee. To be eligible to participate, the governing board of a city must execute an interlocal agreement with the governing body of the county in which the city is located.

Funds from the Local Government Housing Trust Fund are transferred to counties and eligible cities based on annual legislative appropriations. The distribution is made on a monthly basis to counties that do not impose the discretionary surtax on certain documents,<sup>2</sup> in a guaranteed amount calculated by formula, and in an additional share if funds are left after the guaranteed amount has been distributed.

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<sup>2</sup> Miami-Dade County is the only county imposing a discretionary surtax on certain documents pursuant to ss. 125.0167 and 201.031, F.S.

**State Administration of Remaining Local Distribution Funds - s. 420.9078, F.S.**

When funds remain in the Local Government Housing Trust Fund after authorized distributions have been made, s. 420.9078, F.S., requires that the corporation distribute such funds as follows:

- Proportionately under the local housing distribution formula established in s. 420.9073, F.S., to counties and cities where a state of emergency or natural disaster has been declared by executive order, and which have an approved local housing assistance plan for repairing and replacing housing damaged as part of the emergency or natural disaster.
- If no emergency or natural disaster funding is required, then proportionately among the counties and cities who have fully expended their local housing distribution for the immediately preceding state fiscal year, and who have an approved local housing assistance plan.

**Mobile/Manufactured Homes and Park Trailers**

Section 320.8325, F.S., provides the Department of Highway Safety and Motor Vehicles with the authority to adopt rules establishing uniform standards for the installation of mobile homes, manufactured homes, and park trailers. The rules must ensure that the manufactured home or park trailer is installed on a permanent foundation that resists wind, flood, flotation, overturning, sliding, and lateral movement of the home or park trailer. These standards may only be amended by the department. For purposes of chapter 320, a manufactured home is a "mobile home fabricated on or after June 15, 1976, in an offsite manufacturing facility for installation or assembly at the building site, with each section bearing a seal certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standard Act."

Department rules governing the installation of mobile and manufactured homes, including the required use of specified anchors and tie-downs, are in chapter 15C-1 of the Florida Administrative Code.

**III. Effect of Proposed Changes:**

**Section 1** amends s.212.055, F.S., to expand the definition of infrastructure to include both the acquisition of land by a county or special district for a residential housing project that provides affordable or workforce housing units, as described in chapter 420 F.S. A local government or a special district may enter into a ground lease with a public or private entity for the construction of the residential housing project on land acquired under this provision.

**Section 2** amends s. 420.503, F.S., to provide that "moderate rehabilitation" means the repair or restoration of a dwelling unit when the value of such a repair or restoration is not more than 40 percent of the value of the unit but not less than \$10,000.

**Section 3** amends s. 420.5087, F.S., to provide that SAIL funds may be used for moderate rehabilitation purposes.

**Section 4** amends s. 420.5095, F.S., to add a new subsection (17) to allow funds appropriated in s. 33, chapter 2006-69, Laws of Florida, which were either declined or returned by the grantee to be used for workforce-housing projects for teachers and instructional personnel. Requires Florida Housing Finance Corporation to select projects through a competitive process and specifies criteria for priority funding.

**Section 5** amends s. 420.9071, F.S., to:

- Amend the definition of "annual gross income" to allow the Florida Housing Finance Corporation to establish other income verification methods by rule.
- Define "assisted housing" and "assisted housing development" as a rental housing development, including rental housing in a mixed use development, that received or currently receives funding from any federal or state housing program.
- Amend the definition of "eligible housing" to include manufactured housing installed in accordance with the rules of the Department of Highway Safety and Motor Vehicles.
- Amend the definition of "local housing incentive strategies" to allow the local affordable housing advisory committees to propose local housing incentive strategies in the triennial evaluation of how local governments are implementing affordable housing.
- Define "preservation" as efforts taken to keep rents in existing assisted housing or assisted housing development affordable for income-qualified persons while ensuring that the property stays in good physical and financial condition for an extended period.
- Amend the definition of "recaptured funds" to provide that local or grant funds for owner-occupied housing which may be recouped by a county or to city include those funds which were not used to provide assistance and those funds which were part of a defaulted loan or grant award.

**Section 6** amends s. 420.9072, F.S., to amend a cross-reference relating to the administration of funds remaining in the Local Government Housing Trust Fund if not fully distributed for the SHIP program.

**Section 7** amends s. 420.9073, F.S., relating to Local Housing Distributions, to:

- Allow the corporation to distribute Local Government Housing Trust Fund dollars on a quarterly or more frequent basis, subject to the availability of funds.
- Allow the corporation to withhold up to \$5 million in funds distributed from the Local Government Housing Trust Fund to provide additional funding to counties and cities in a state of emergency.
- Allow the corporation to withhold up to \$5 million in funds distributed from the Local Government Housing Trust Fund to provide funding to counties and cities to purchase properties subject to a SHIP lien on which foreclosure proceedings have been instituted.
- Clarify that counties and cities receiving SHIP funds must expend those funds in accordance with statutory requirements, corporation rules, and the local housing assistance plan.

**Section 8** amends s. 420.9075, F.S., relating to Local Housing Assistance Plans, to provide that:

- In the development and implementation of local housing assistance plans used to make affordable housing available to qualified persons, counties and cities must include persons with disabilities as persons with special housing needs.
- In high-cost counties as defined by rule of the corporation, and in eligible cities, local housing assistance plans can include strategies to assist persons and households with annual incomes of not more than 140 percent of the area median income.
- Local housing assistance plans must describe initiatives that encourage or require innovative design, green building principles, storm-resistant construction, or other elements that reduce long-term costs relating to maintenance, utilities, or insurance.
- Counties and cities are encouraged to develop local housing assistance plans that provide funding for preservation of assisted housing or assisted housing developments.
- Not more than 15 percent of funds made available in each county and eligible city may be used for manufactured housing.
- Monroe County's exemption from income-restrictions relating to the use of set-aside funds in the local government assistance trust fund is extended from July 1, 2008 to July 1, 2013, so that awards may be made to residents with incomes no higher than 120 percent of the area median income. If Monroe County meets the corporation definition of a "high-cost county," the income limit may be raised to 140 percent of the area median income.
- SHIP funds may be used for preconstruction activities. When preconstruction due diligence activities prove that preservation is not feasible, the costs for those activities are program costs and not administrative costs.
- Counties and cities may award construction, rehabilitation, or repair grants as part of disaster recovery, emergency repairs, or to remedy access or health and safety issues.
- Program funds expended for an ineligible activity must be repaid to the Local Housing Assistance Trust Fund and SHIP funds may not be used.

**Section 9** amends s. 420.9076, F.S., relating to the adoption of affordable housing incentive strategies, to allow a local governing body that also serves as a local planning agency to appoint a designee to the local affordable housing advisory committee. The committee's evaluation of the local housing assistance plan and its report on the evaluation must be submitted to the corporation.

**Section 10** amends s. 421.08, F.S., relating to the power of public housing authorities, to provide that a housing authority may not limit access to public housing by state and local elected officials and candidates running for state or local government elected offices.

**Section 11** amends s. 159.807, F.S., relating to the State Allocation Pool, to remove an exception to the corporation for the use of the state allocation pool used to provide written confirmations for private activity bonds issued by state agencies, which bonds, irrespective of other provisions of part VI in chapter 159, governing the use of private activity bonds, will receive priority in the use of the pool available at the time the notice of intent to issue such bonds is filed with the Division of Bond Finance.

**Section 12** repeals s. 420.9078, F.S., providing statutory requirements for the distribution of funds, if any, which remain in the Local Government Housing Assistance Trust Fund, after all appropriations have been made.

**Section 13-16** contain cross-reference corrections to ss. 212.08, 220.03, 220.183, and 624.5105, F.S.

**Section 17** provides that the act shall take effect July 1, 2008.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

The CS does not require cities and counties to expend funds or limit their authority to raise revenues or receive state-shared revenues as specified by s. 18, Art. VII, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Residents living in high-cost counties who have an annual income of not more than 140 percent of the area median income may be eligible for homeownership assistance through a local government's local housing assistance plan. Residents who purchase manufactured homes constructed after June 1994 or installed according to the standards of the Department of Highway Safety and Motor Vehicles will be eligible for assistance under the SHIP program so long as they are assessed as real property for ad valorem tax purposes.

Certain affordable housing apartment properties in private ownership will be eligible for moderate rehabilitation loans under the SAIL program.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs Committee on March 27, 2008:**

The CS implements the intent of the original bill to revise laws relating to affordable housing. The CS revises definitions for the purposes of the Florida Housing Finance Corporation act, revises the purposes for which SAIL loans may be made, and revises the purposes for which SHIP funds may be used. The Florida House Finance Corporation is authorized to establish funding set-asides for local governments in a state of emergency or for local governments to purchase SHIP properties which are in foreclosure. The CS extends the expiration date of an exemption from certain income requirements in specified areas, and amends provisions relating to the administration of funds in the Local Government Housing Trust Fund.

**CS by Transportation and Economic Development Appropriations on April 10, 2008:**

- The CS expands the definition of infrastructure to include the acquisition of land by a county or special district for a residential housing project that provides affordable or workforce housing units, as described in chapter 420 F.S., and the construction of a residential housing project by a public or private person on land acquired pursuant to the expanded definition of infrastructure.
- The CS permits funds appropriated in s. 33, chapter 2006-69, Laws of Florida, which were either declined or returned by the grantee to be used for workforce-housing projects for teachers and instructional personnel. Requires Florida Housing Finance Corporation to select projects through a competitive process and specifies criteria for priority funding.

**B. Amendments:**

None.