

1989

Session Law 89-121

Florida Senate & House of Representatives

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House of Representatives, Florida Senate &, "Session Law 89-121" (1989). *Staff Analysis*. 998.
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**S 732 GENERAL BILL/CS/1ST ENG by Community Affairs;
Community Affairs (Compare CS/H 1015)**
Housing/Loans; redefines term "substantial rehabilitation"; establishes Elderly Homeowner Rehabilitation Program; provides for deferred loans to elderly homeowners; prescribes powers of Fla. Housing Finance Agency; provides for types of loans & establishes qualifications; authorizes rental of units under certain conditions; provides for availability of appropriated funds in subsequent fiscal years, etc. Amends Ch. 420. Effective Date: 07/01/89.

03/29/89 SENATE Prefiled
04/07/89 SENATE Introduced, referred to Community Affairs; Appropriations -SJ 107
04/14/89 SENATE Extension of time granted Committee Community Affairs
04/20/89 SENATE On Committee agenda—Community Affairs, 04/24/89, 10:00 am, Room-C-(LL-32)
04/24/89 SENATE Comm. Report: CS by Community Affairs -SJ 242
04/28/89 SENATE CS read first time -SJ 245; Now in Appropriations -SJ 242
05/03/89 SENATE Extension of time granted Committee Appropriations
05/16/89 SENATE On Committee agenda—Appropriations, 05/18/89, 12:00 noon, Room-A-(LL-37)
05/18/89 SENATE Comm. Report: Favorable with 2 amendment(s) by Appropriations, placed on Calendar -SJ 402
06/01/89 SENATE Placed on Special Order Calendar -SJ 686; CS passed as amended; YEAS 39 NAYS 0 -SJ 753
06/01/89 HOUSE In Messages
06/02/89 HOUSE Received, placed on Calendar; Motion to move to second reading failed; Motion to move to second reading passed; Read second time; Read third time; CS passed; YEAS 108 NAYS 7 -HJ 1451
06/03/89 Ordered enrolled -SJ 1406
06/12/89 Signed by Officers and presented to Governor
06/26/89 Approved by Governor; Chapter No. 89-121

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

REVISED: May 18, 1989

BILL NO. CS/SB 732

DATE: May 17, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Bradley</u>	<u>Buck</u>	1. <u>CA</u>	<u>Fav/CS</u>
2. <u>Barrett</u>	<u>Smith</u>	2. <u>AP</u>	<u>Fav/2 amends</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Housing

BILL NO. AND SPONSOR:

CS/SB 732 by
Community Affairs and
Senator Meek

I. SUMMARY:

A. Present Situation:

The 1988 Legislature created and funded three new programs for affordable housing: the Housing Predevelopment Trust Fund (HPTF), a consolidation and refinement of two existing programs, the State Apartment Incentive Loan Program (SAIL), and the Homeownership Assistance Program (HAP). These three programs are described below:

The HPTF provides assistance to local governments, housing authorities, and non-profit organizations who have participated in a state training program or who have housing development experience. Loans and grants are available for housing projects renting or selling at least 20 percent of the units to very low-income persons or 50 percent of the units to low-income or farmworker households. Loans of up to \$500,000 are made at 3 percent for 3 years for site acquisition and development, professional fees, and marketing. Grants are available for administrative costs, marketing and feasibility studies, consulting, operating expenses, and development activities in an amount up to \$1,500 per proposed unit. During the first 6 months of funds availability, 40 percent of the total funds must be reserved for farmworker housing.

The SAIL program provides low-interest mortgage loans to for-profit, non-profit, and public entity sponsors for the construction or rehabilitation of apartment projects in which at least 20 percent of the units are set aside for a minimum of 12 years for persons with incomes below 50 percent of the median income. Mortgage loans are limited to 25 percent of the total project cost; however, sponsors eligible for first mortgage loans or those producing projects to house farmworkers may receive loans exceeding that ceiling. During the first 6 months of funds availability, funds are reserved for projects assisting certain categories of persons according to the following formula: 10 percent for farmworkers, 45 percent for families, and 45 percent for elderly persons.

The HAP offers second mortgage loans at 3 percent for 10 years to low-income homebuyers to reduce the down payment and closing costs to 5 percent of the purchase price, thereby enabling low-income persons to become homeowners. The loans are available in conjunction with reduced-interest first mortgage loans financed through bonds of the Florida Housing Finance Agency. The state loan enables the first mortgage program to help a lower income level of families.

As part of the Affordable Housing Act of 1987, the Legislature created a training and technical assistance program for community-based organizations and provided for an inventory of publicly owned lands and buildings suitable for the development

of affordable housing. The training and technical assistance program received funding in 1987 and provided assistance to applicants under the Affordable Housing Demonstration Program. The inventory of publicly owned properties was completed in 1987 and is currently being updated by the Department of Community Affairs. The 1986 act also created the Affordable Housing Study Commission and the Committee on Housing for the Elderly. No other provisions were made in 1986, or since that time, for research and planning related to affordable housing.

B. Effect of Proposed Changes:

This bill restructures the administration of and corrects minor technical flaws in the State Apartment Incentive Loan Program and expands the Homeownership Assistance Program to include permanent second mortgages. The bill also expands the training and technical assistance program for sponsors of affordable housing, revises the process for updating the inventory of publicly owned properties suitable for housing development, and provides for a variety of research and planning tasks related to affordable housing to be carried out by the Department of Community Affairs. The specific provisions of the bill are described below.

Amendments to the SAIL program include:

Section 420.0004(10), F.S., is amended to conform the definition of "substantial rehabilitation" to the definition of that term in s. 420.503(21), F.S., which refers to 40 percent of the value of the structure rather than 50 percent.

Section 420.503, F.S., is amended to add a definition of "department" as the Department of Community Affairs (DCA) to Part V of chapter 420, F.S., the Florida Housing Finance Agency Act.

Section 420.507(22), F.S., is amended to provide that the Florida Housing Finance Agency (FHFA) administers the State Apartment Incentive Loan (SAIL) program "jointly with the department"; to delete the general rulemaking authority of the FHFA for the SAIL program; and to remove FHFA authority to establish the rule for evaluation, scoring, and competitive ranking of SAIL applications, providing instead that the FHFA, in consultation with the department, would establish the rule for making and servicing loans.

Subsections 420.507(4) and (18), F.S., are amended to provide for direct payment of fees and charges from borrowers to insurers, lenders and servicing agents. The change provides clear authority for expeditious loan servicing. Subsection (18) is further amended to clarify authority of the Florida Housing Finance Agency to contract for loan servicing for the life of the loan. Loan servicing includes construction draw approvals, collection of mortgage payments, public purpose compliance monitoring, and, if necessary, foreclosure proceedings. Because the servicing fee is paid by the developer, it is a cost which must be taken into consideration in the credit underwriting process. To establish the servicing cost, the servicing contract must cover the term of the loan.

Subsection 420.507(22), F.S., and section 420.5087, F.S. are amended to authorize subordinated mortgages beyond first and second mortgages. This provides more flexibility in the use of SAIL loans in conjunction with other programs.

Section 420.5087(6)(b), F.S., is amended to provide that the DCA, rather than the FHFA, publishes the Notice of Fund Availability for SAIL.

Section 420.5087(6)(c), F.S., is amended to authorize the DCA, in consultation with the FHFA, (rather than the FHFA itself) to

adopt by rule a scoring system for evaluating SAIL applications. The DCA would also establish by rule a review committee composed of department and agency staff.

Section 420.5087(6)(c)8., F.S., is amended to expand the SAIL scoring criterion relating to local government contributions to specifically refer to local comprehensive planning and housing activities.

Section 420.5087(6)(d), F.S., is amended to give the department, in addition to the agency, the authority to reject SAIL applications.

Section 420.5086(6)(e), F.S., is amended to give the department, rather than the agency, authority to approve and reject SAIL applications for the purpose of achieving geographic targeting.

Section 420.5087(6)(f), F.S., is amended to delete the SAIL application review committee composed of the executive director and two policymaking employees of the agency and to delete provisions for applicant appeal to the agency board. The review committee established by DCA rule would make recommendations to the FHFA board which would make the final ranking and decisions on program participation.

Section 420.5087, F.S., is further amended to make additional technical corrections to the SAIL program: to clarify that loans shall not exceed the lesser of 25 percent of project cost or the minimum necessary to make the project economically feasible; to include the tenant income eligibility requirements associated with the federal low-income housing tax credit as a public purpose option under the program; to provide for availability of funds loaned for housing construction during the entire construction period even if it extends beyond the fiscal year in which the loan was made (i.e., prevents the recapture during the budgetary process of funds already committed); to eliminate the due on sale provision relating to SAIL loans in order to enable loans to be transferred or refinanced, provided that the low-income units are retained; to allow a sponsor who has submitted an acceptable marketing plan and who has made a good faith effort to rent to persons in the target category (i.e. family, elderly, or farmworker) to rent to other very low-income persons; and to enable SAIL project sponsors to participate in federal mortgage insurance programs by allowing requirements of the federal program to take precedence when a conflict occurs with SAIL requirements.

Subsection 420.509, F.S., is amended to clarify that powers vested in trustees for bondholders of agency bonds are vested for the life of the bonds.

Amendments to the Homeownership Assistance Program include:

Section 420.507(23)(d) and (e), F.S., is amended to authorize nonamortizing second mortgage loans for up to the term of the first mortgage, rather than up to 10 years with payments deferred during the first five years.

Section 420.5088, F.S., is amended to expand the Homeownership Assistance Program to include permanent second mortgages for up to the term of the first mortgage. These mortgages would be limited to the lesser of 25 percent of the purchase price of the home or the amount necessary to enable the purchaser to meet credit underwriting criteria. The FHFA is authorized to provide by rule for giving preference to assisting low-income homebuyers through second mortgages that reduce up-front costs as opposed to second mortgages that reduce the total monthly mortgage payment.

The FHFA is authorized to retroactively apply the proposed amendments to the program. This would enable the agency to renegotiate existing HAP loans for uniformity and efficiency of administration.

The bill contains the following additional provisions:

Section 420.606, F.S., is amended to expand the training and technical assistance program for community-based organizations to also address the training needs of local government personnel and state agency staff, as appropriate. A clearer distinction is made between training activities as designed to build the housing development capacity of project sponsors as a permanent state resource and technical assistance activities intended to provide guidance to applicants and expedite implementation of specific projects. The bill delineates activities appropriate to each component of the training and technical assistance program.

Section 420.6075, F.S., is created to direct the Department of Community Affairs to undertake research and planning activities related to the provision of affordable housing. The department is to quantify affordable housing needs in the state through an analysis of available data, to document the results since 1980 of all housing-related programs administered by the department, and to inventory the supply of units of affordable housing made available through federal, state, and local programs. Annually, beginning February 1, 1990, the department is to submit to the Governor and the Legislature an annual report including recommended housing initiatives. In addition, the department is to provide for a study of the role of non-profit groups in meeting the state's need for affordable housing and a study of local government activities related to affordable housing. By April 1, 1990, the department is to make recommendations regarding state assistance to maximize the contributions of non-profit organizations and local governments to the production of affordable housing. Finally, the department is to conduct research on program options and training models to further the production of affordable housing.

Section 420.608, F.S., is amended to provide a more efficient process for updating the inventory of publicly owned lands and buildings suitable for affordable housing development. Certain state agencies are required to submit to the DCA by March 1 of each year a list of newly available sites as well as sites which are no longer available. Local and regional planning agencies, rather than county property appraisers and school boards, are specified as the sources for information to update the inventory for counties where it has been compiled. The DCA is directed to make the inventory available.

Section 420.609, F.S., relating to the Affordable Housing Study Commission is amended to revise the membership by replacing the DCA secretary and the FHFA board chairman with one additional representative of very low-income and low-income persons and one additional representative of elderly housing interests. The DCA secretary is given control over commission staffing. The requirement for an independent annual report by the commission is deleted. Instead, commission recommendations would be channeled through the DCA secretary for inclusion, along with the department's response, in the departmental report.

Finally, the sum of \$1 million is appropriated for the production of single-family housing under the Affordable Housing Demonstration Loan Program enacted in 1986.

The bill takes effect July 1, 1989, or upon becoming a law, whichever occurs later.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

To the extent that the various provisions of the bill increase the availability of affordable housing, Florida citizens, especially very low-income and low-income persons, will benefit. To the extent that the availability of affordable housing supports economic growth by providing for the needs of workers, the business community will benefit.

B. Government:

The bill appropriates \$1,000,000 for the production of single family housing under the Affordable Housing Demonstration Loan program.

To the extent that the provisions of the bill improve the effectiveness of state funded affordable housing programs, the state will benefit through achieving the most cost-effective use of funds appropriated for housing. The Senate Community Affairs Committee recommends the following levels of funding:

Affordable Housing Study Commission	\$ 50,000	
Training and Technical Assistance	180,000	
Research and Planning	255,000	
Statewide Inventory of	215,000	
Publicly Owned Lands	<u>\$ 600,000</u>	Total
and Buildings		

III. COMMENTS:

There is no fund type specified in the appropriation.

IV. AMENDMENTS:

#1 by Appropriations:

Creates an Elderly Homeowner Rehabilitation Program to provide grants to local governments for use in making deferred loans to low-income elderly homeowners for home rehabilitation. Provides definitions, administration of the program, application requirements and procedures, and the creation of a Florida Elderly Housing Trust Fund.

#2 by Appropriations:

Title amendment.