

AFFORDABLE HOUSING
WORKGROUP
FINAL REPORT
2017

December 22, 2017

The Honorable Rick Scott
Governor, State of Florida
PL-05 The Capitol
Tallahassee, FL 32399-0001

The Honorable Joe Negron
President, The Florida Senate
409 The Capitol
Tallahassee, FL 32399-1100

The Honorable Richard Corcoran
Speaker, Florida House of Representatives
420 The Capitol
Tallahassee, FL 32399-1300

Dear Governor Scott, President Negron and Speaker Corcoran:

On behalf of the Affordable Housing Workgroup, it is my pleasure to submit this report to fulfill the requirements of Chapter 2017-071, Laws of Florida, which implemented Specific Appropriation 2225 of the 2017-18 General Appropriations Act.

The legislation charged the Workgroup with developing recommendations to address the state's affordable housing needs and to develop strategies and pathways for low income housing in the state. Our 14-member body convened and deliberated during the fall of 2017. Meetings were held throughout the state and featured numerous opportunities for public input including livestreaming access to all discussions.

The findings and recommendations that follow represent the culmination of extensive research and vigorous and thoughtful debate of issues impacting the need for, production of, and access to affordable housing in Florida. The recommendations were presented to and approved by the board of directors of Florida Housing Finance Corporation on December 8, 2017.

As the Chair of the Workgroup, and speaking for all Workgroup members, I extend our appreciation for the opportunity to serve the citizens of Florida. Please do not hesitate to contact me for additional information.

Sincerely,



Harold L. "Trey" Price
Executive Director

Rick Scott, Governor

Board of Directors: Bernard "Barney" Smith, Chairman • Ray Dubuque, Vice Chairman
Natacha Bastian • Renier Diaz de la Portilla • LaTasha Green-Cobb • Creston Leifried • Ron Lieberman
Julie Dennis, Florida Department of Economic Opportunity

Harold "Trey" Price, Executive Director

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MEMBERS OF THE WORKGROUP

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Trey Price, Executive Director
Florida Housing Finance Corporation

Representative Appointed by The Florida House of Representatives (1 of 2)

The Honorable Mike Miller
Florida House of Representatives, District 47

Representative Appointed by The Florida House of Representatives (2 of 2)

Hollie Croft, Partner, Orlando
Broad and Cassel

Representative Appointed by The Florida Senate (1 of 2)

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Representative Appointed by The Florida Senate (2 of 2)

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Commissioner, Broward County Board of County Commissioners

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The Honorable Wayne Messam, Mayor
City of Miramar

Chairman of The Florida Building Commission

Richard S. Browdy, President
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Shannon Nazworth, Executive Director
Ability Housing, Inc.

Gubernatorial Appointment - Advocate for Individuals with a Disabling Condition or Special Needs

Jack D. Humburg, Executive Vice President
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Gubernatorial Appointment - Building/Development Community Representative

Hana Eskra, Florida Marketing President
Gorman & Company

Gubernatorial Appointment - Realtor Licensed in Florida

Cheryl Lambert, Broker/Owner
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Executive Director (or Designee) of The Florida Department of Economic Opportunity

Julie Dennis, Director
Division of Community Development
Florida Department of Economic Opportunity

LEGISLATIVE CHARGE

Workgroup recommendations must include, but are not limited to:

- A review of market rate developments;
- A review of affordable housing developments;
- A review of land use for affordable housing developments;
- A review of building codes for affordable housing developments;
- A review of the state's implementation of the low income housing tax credit;
- A review of private and public sector development and construction industries;
- A review of the rental market for assisted rental housing; and
- The development of strategies and pathways for low income housing.

ACKNOWLEDGEMENTS

Florida Housing Finance Corporation Team

Nancy Muller, Workgroup Staff Director

Sheila Freaney, Administrative Support

John Toman, Policy Support

Diana Fields, Policy Support

Cory Beaver, Final Report Design

Thanks to many other staff at Florida Housing, the Shimberg Center for Housing Studies at the University of Florida, the Florida Housing Coalition, and numerous other stakeholders throughout Florida who provided valuable information and perspective to assist the Workgroup in its efforts.





Executive Summary

The 2017 Legislature created the Affordable Housing Workgroup with the charge to:

- Review housing in Florida, with a focus on affordable rental housing;
- Examine land use and building codes as they relate to affordable housing; and
- Consider the state's implementation of the Low Income Housing Tax Credit program.

The Workgroup was also charged with hearing from the development industry to assist it in making recommendations across these areas, broadly including the development of strategies and pathways for low income housing.

What is Affordable Housing?

Affordable housing is safe and decent housing. It differs from market rate housing in two ways: the income of the family living in the housing; and the financing of the housing.

Affordable housing is defined in terms of the income of the people living in the home. The family must be income eligible. Income eligibility is defined in terms of area median income (AMI), adjusted for family size, from extremely low income up to moderate income. Statewide, an extremely low income 2-person family makes about \$16,200 per year, and a moderate income family brings home about \$62,400 per year – these amounts vary depending on the area of the state.

It is generally accepted that a lower income family spending more than 30-40 percent of its income on housing costs will be cost burdened and not have enough money left over to pay for items such as transportation, food, clothing and healthcare. It follows that the concept of affordable housing is not applicable to higher income households. If a household earning \$200,000 per year chooses to spend as much as 50 percent of its income on housing costs, it could do so without being cost burdened. Generally, the issue of whether housing meets the technical definition of “affordable” ceases to be a societal concern when the income of an occupant exceeds 120 percent, or in rental cases, 60 percent of the AMI, except for a few places in the state where housing costs are extremely high.

What makes housing affordable is a decrease in monthly rent or mortgage payments, allowing a family to pay less for the housing than it otherwise would cost at “market rate.” Lower monthly payments are a result of affordable housing financing to support homeownership and rental housing, provided through public sector programs at the federal, state and local level.

The Workgroup's Approach

The Legislature gave the Workgroup a short time in which to make its deliberations, requiring the final report to be completed by the end of 2017. The group met four times around the state, with all meetings livestreamed for public access. The public was invited to submit written thoughts and make comments at each meeting. The Workgroup's website on the next page provides in depth information about the topics covered over the fall.

Executive Summary

<http://www.floridahousing.org/about-florida-housing/workgroup-on-affordable-housing>

After the Workgroup completed its deliberations, the recommendations were presented to the Florida Housing Finance Corporation Board of Directors for approval, as required by the legislative charge. The Board held a workshop to review the recommendations and take public comment. On December 8, 2017, the Board approved the recommendations. The Board also submitted a letter, included in the Report Appendix, providing comments on several of the recommendations.

Summary of the Workgroup's Findings and Recommendations

FUNDING TO IMPLEMENT FLORIDA'S AFFORDABLE HOUSING PROGRAMS

WORKGROUP FINDING

At each of its four meetings, the Workgroup heard from the public and received many written comments. While many ideas were presented to the Workgroup, a consistent theme from the public is the continued need for resources to meet Florida's housing needs. The Workgroup finds that it is essential for the State of Florida to appropriately invest in affordable housing. Not only are the state funds important on their own, but they leverage critical federal financing, all of which works together to create important employment and economic benefits for the state. The housing need was already significant before Hurricane Irma struck the state.

Recommendation: The Legislature should appropriate all Sadowski funds in the State and Local Government Housing Trust Funds solely for Florida's affordable housing programs.

LAND USE FOR AFFORDABLE HOUSING DEVELOPMENT

WORKGROUP FINDING

The Workgroup's review and discussion of impact fee processes across the state confirmed the location-specific character of fees as provided for through home rule powers. In areas where impact fees are waived in some manner for affordable housing, the waivers can act as catalysts for affordable housing by mitigating development costs.

Recommendation: The Workgroup recommends that local governments assessing impact fees either waive fees outright for affordable housing or establish local dedicated funds to make such affordable housing waivers possible.



WORKGROUP FINDING

The Workgroup finds that a variety of land use tools can be employed by local governments to support the development of affordable housing. In particular, density bonus programs are excellent tools to incentivize the production of affordable housing in a community and work best when used solely for this purpose. The Workgroup believes the most potent approach to density bonuses requires a developer to include affordable units on site in areas with excellent proximity to public transit, employment and other amenities to foster economic mobility. Additionally, micro-units and accessory dwelling units are important tools to create more affordable rental units in urbanized areas for small, cost burdened households. Finally, reducing parking requirements associated with residential development, especially in urbanized areas close to transit centers, is an important way to reduce the cost of development.

Recommendations

- The Workgroup recommends that local governments, particularly those in urbanized areas, strongly consider incorporating density bonus programs, reduced parking minimums, and reductions of land use barriers to the development of micro-units and accessory dwelling units into their land use tool boxes to support the development of affordable housing.
- The Department of Economic Opportunity should continue to provide technical assistance to local communities desiring assistance to implement strategies to facilitate increased development of affordable rental housing.



BUILDING CODES FOR AFFORDABLE HOUSING DEVELOPMENT

WORKGROUP FINDING

The Florida Building Code establishes minimum technical performance requirements to safeguard the public health, safety and general welfare within the state's built environment. It includes review mechanisms for updating standards, provides flexibility to address issues of construction affordability, and promotes innovation and new technology. All of these features are critical to the successful development of affordable housing. As the 2017 hurricane season vividly displayed, structural strength and safety to property and life are essential to Florida's residents.

Recommendation: While the idea of a unique affordable housing-specific building code was explored, the Workgroup recommends that affordable housing developments continue to comply with all standards and performance criteria of the Florida Building Code going forward.

IMPLEMENTATION OF THE STATE HOUSING INITIATIVES PARTNERSHIP PROGRAM

WORKGROUP FINDING

The Workgroup finds that there is an increased need for affordable rental housing throughout the state. Data show that the current flexibility allowing SHIP to be used for rental strategies is being underutilized by most local governments.

Recommendations

- With the decrease in the homeownership rate in Florida, local governments should evaluate the need for affordable rental housing in their communities and consider using SHIP funds to assist in developing new affordable rental housing.
- The Catalyst Training and Technical Assistance Program should continue to provide regular training opportunities to local SHIP administrators about options for using SHIP to develop rental strategies. The training should educate local governments about how they can maximize their rental strategies with new allocations, as well as program income, which is not restricted by the 65 percent homeownership requirement.
- The Legislature should exempt SHIP funding used to finance small rental developments for persons with special needs and homeless persons from the 65 percent homeownership requirement, but no less than 60 percent of a local allocation must be used for homeownership.
- Florida Housing Finance Corporation should develop a simple monitoring report template for local governments to use for any rental properties that are not covered by compliance reporting under other corporation administered programs. Florida Housing Finance Corporation should also examine the approach of allowing “self-certifications” provided by smaller properties, as the corporation already allows for smaller, special needs properties in its portfolio.

STATE IMPLEMENTATION OF RENTAL HOUSING PROGRAMS

WORKGROUP FINDING

While only one-third of applications awarded financing by Florida Housing are chosen through a lottery, the Workgroup finds that, ideally, no awards should be made through a lottery.

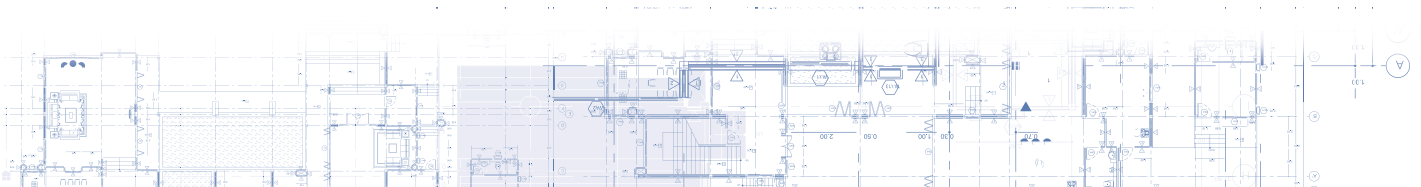
Recommendation: Florida Housing Finance Corporation should continue efforts to reduce the allocation of awards based upon the lottery.

WORKGROUP FINDING

The Workgroup finds that Florida Housing Finance Corporation’s rental allocation process takes longer than it ideally should mainly due to legal challenges to scoring results. Challenges are allowed under s. 120.57, F.S., and while they are more expedited than Florida Housing Finance Corporation’s older rule-based litigation process, the additional time taken to resolve these cases means more time before developments are constructed and available for occupancy.

Recommendations

- Florida Housing Finance Corporation should evaluate whether legal challenges in which all parties agree after litigation has occurred can be sent to the Executive Director rather than the Board for issuance of a Final Order.
- Florida Housing Finance Corporation should assess its application process with the goal to remove or simplify scoring items that are most likely to be litigious, but should maintain scoring items that allow the corporation to differentiate and choose the best developments for funding. With these changes, Florida Housing Finance Corporation must adopt an approach that discourages developers from not having completed “ability to proceed” items by the start of the credit underwriting process. Before implementation, the corporation should workshop these proposals with stakeholders participating in Florida Housing Finance Corporation programs.



WORKGROUP FINDING

The Workgroup finds that the existing affordable rental housing stock is aging, particularly housing geared to serve extremely low income Floridians with federal project-based rental subsidies. Because of restricted rents at many properties, including those in Florida Housing Finance Corporation's portfolio, many properties do not have the resources needed to recapitalize and rehabilitate properties to adequately serve residents over their long affordability periods.

Recommendation: Florida Housing Finance Corporation should continue to develop a more robust rental preservation strategy that includes, but is not limited to, recapitalization opportunities of properties in Florida Housing Finance Corporation's portfolio.

WORKGROUP FINDING

The Workgroup finds that many local governments are looking for ways to leverage their local dollars with other financing to assist them in meeting local affordable rental housing objectives.

Recommendation: Florida Housing Finance Corporation should continue implementation of the Local Government Area of Opportunity Preference in Low Income Housing Tax Credit Requests for Applications for large counties, and explore the expansion of its use in medium and small counties.

WORKGROUP FINDING

Extremely low income units are the most expensive to finance because of the very limited rents these units provide to offset debt/operations on a property. Florida has the greatest need for these units, yet there are relatively few of them in Florida Housing Finance Corporation's portfolio because they are so expensive to finance.

Recommendation: Florida Housing Finance Corporation should evaluate strategies other states use to provide Low Income Housing Tax Credit financing for extremely low income units, and implement promising strategies that are financially feasible.

WORKGROUP FINDING

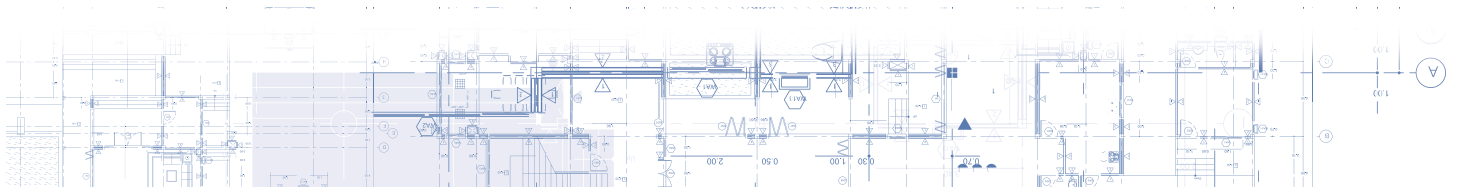
The Workgroup finds that, while a simple evaluation of the need for rental housing for cost-burdened and other persons with special needs and homeless people is carried out every three years pursuant to the SAIL statute, Florida has a very limited understanding of the variety of housing needs across these sub-populations.

Recommendation: Florida Housing Finance Corporation should find the resources to conduct a state level needs assessment to identify the statewide affordable and supportive housing needs by special needs and homeless populations and perform financial modeling to address the housing needs of each sub-population.

WORKGROUP FINDING

Based on the late-2017 Link report provided by the corporation, the Workgroup finds that Florida Housing Finance Corporation is still having difficulty in meeting the intent of the Link Strategy. Holding available units open for a limited time adds another barrier for extremely low income persons with special needs to access units set aside specifically for these households. Even though Florida Housing Finance Corporation has recently extended the hold period to 30 days, the Workgroup finds that this extended period still does not meet the intent of using public resources to ensure the intended households have access to the units specifically set aside to serve them.

Recommendation: Florida Housing Finance Corporation should convene a working group to develop policies to fulfill the requirement that all developments with the commitment to set aside units for extremely low income households with special needs through the Link Strategy comply with the requirement and hold them available until a referred household leases the unit. The working group should include developers, property managers, participating Link supportive service providers and others to develop such an approach, including policies to address when exceptions to this requirement are needed.



WORKGROUP FINDING

The Workgroup finds that low barrier entry procedures for prospective tenants with extremely low incomes are necessary to ensure that these citizens are given an opportunity to access decent, affordable housing throughout Florida Housing Finance Corporation's portfolio of rental properties.

Recommendation: Florida Housing Finance Corporation should adopt comprehensive low barrier entry requirements as well as requirements to lower barriers to continued occupancy for general occupancy properties, targeted to all units set aside for extremely low income tenants, including but not limited to Link units. This requirement should include development of standards for implementation and training geared to developers and property managers. The corporation should convene a workgroup of subject matter experts, including property managers, fair housing experts, developers and others, to assist in development of standardized requirements.

WORKGROUP FINDING

Nonprofit development organizations are critical to support, because they are more likely to develop properties to serve persons with special needs who have extremely low incomes. The workgroup finds that Florida Housing Finance Corporation's credit underwriting process treats nonprofit developers the same or similarly to for-profit developers. However, transactions undertaken by 100 percent nonprofit organizations often use non-traditional financing for development and operations that do not fit well into the traditional credit underwriting framework.

Recommendation: Florida Housing Finance Corporation should create a workgroup of subject matter experts to create an alternative credit underwriting approach for developments serving persons with special needs and homeless households developed and/or operated by nonprofit organizations.



LOCAL HOUSING FINANCE AUTHORITY TAX EXEMPTION OF MORTGAGES

WORKGROUP FINDING

Current law provides an exemption from documentary stamp and intangible taxes related to mortgages financed by or on behalf of local housing finance agencies (HFAs) when the mortgage is made in connection with bonds issued by a local HFA [Section 159.621 (1), F.S.]. However, most local HFAs also operate homeownership programs that do not use bond financing. Florida Housing Finance Corporation is granted the exemption for any mortgage, while local HFAs are not.

Recommendation: The Legislature should adopt legislation that would provide an exemption from documentary stamp and intangible taxes related to all mortgages financed by or on behalf of local housing finance agencies.





Summary of the Affordable Housing Need in Florida

The Workgroup’s legislative charge included a review of market rate and affordable housing developments. The charge also included a review of the rental market for assisted rental housing. This section of the report summarizes the information reviewed by the Workgroup to provide a foundation for the group’s deliberations.

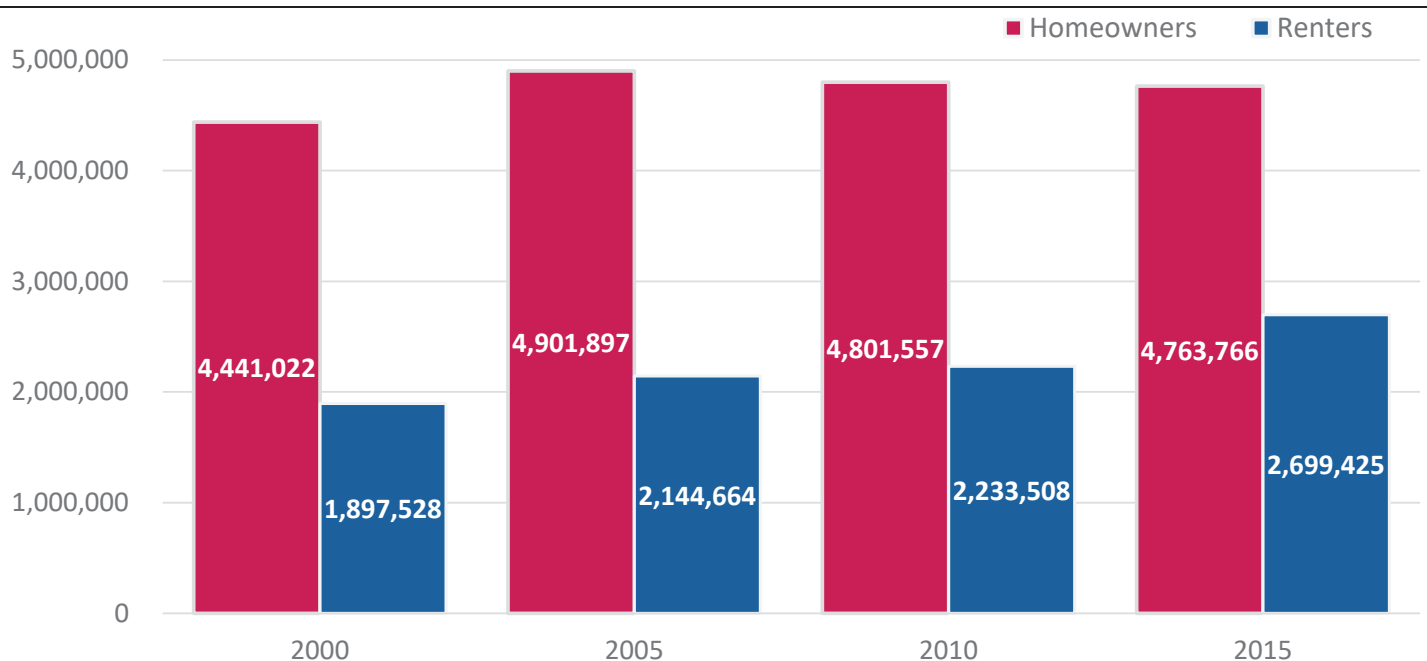
Tenure (Owner/Renter Status)

Most Florida households own their homes, but the state’s renter population has grown rapidly in recent years. Florida added 460,875 homeowners between 2000

and 2005 as the housing market strengthened (Figure 1). Homeownership peaked in 2005, then fell slowly in the following years during the economic recession. As a result, the net growth in the number of homeowners between 2000 and 2015 was just seven percent.

In contrast, the number of renters grew during both the strong and weak market periods. Florida added 801,897 renter households between 2000 and 2015, a 42 percent increase. Over half of the increase took place between 2010 and 2015.

Figure 1. Households by Tenure, Florida, 2000-2015



Source: U.S. Census Bureau, 2000 Census and 2005/2010/2015 American Community Survey 1-Year Public Use Microdata Sample (PUMS); compiled by the Shimberg Center for Housing Studies, University of Florida.

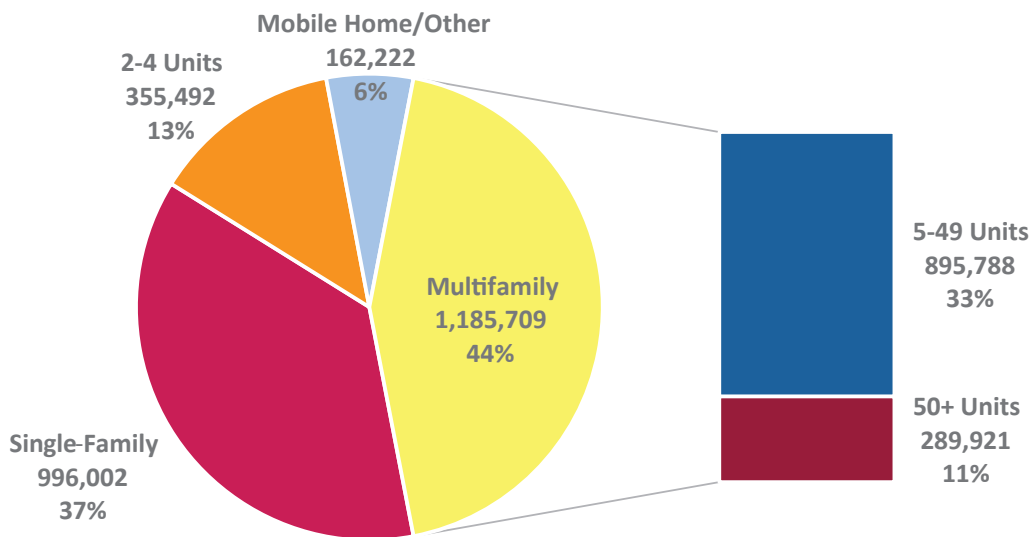
Summary of the Affordable Housing Need in Florida

Florida's Rental Housing Stock

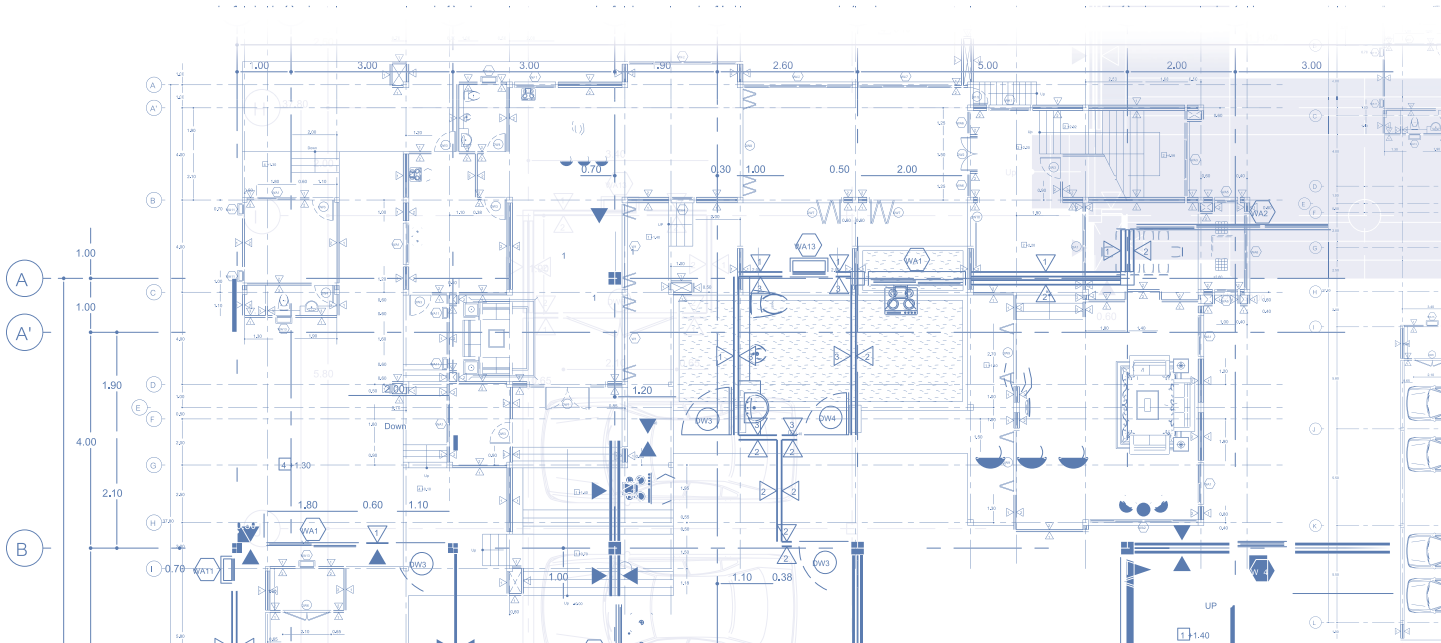
While high-rises and large garden apartment buildings may be the most visible rental developments, most of Florida's renters actually live in smaller buildings. More than one-third of renters live in single family homes (37 percent; see Figure 2). The second and third most

common structure types are 5-49 unit and 2-4 unit buildings; note that this includes small buildings that are grouped together into a larger apartment complex. Only 11 percent of renters live in buildings with 50 or more units.

Figure 2. Structure Type for Occupied Units, Renters Only, Florida, 2015



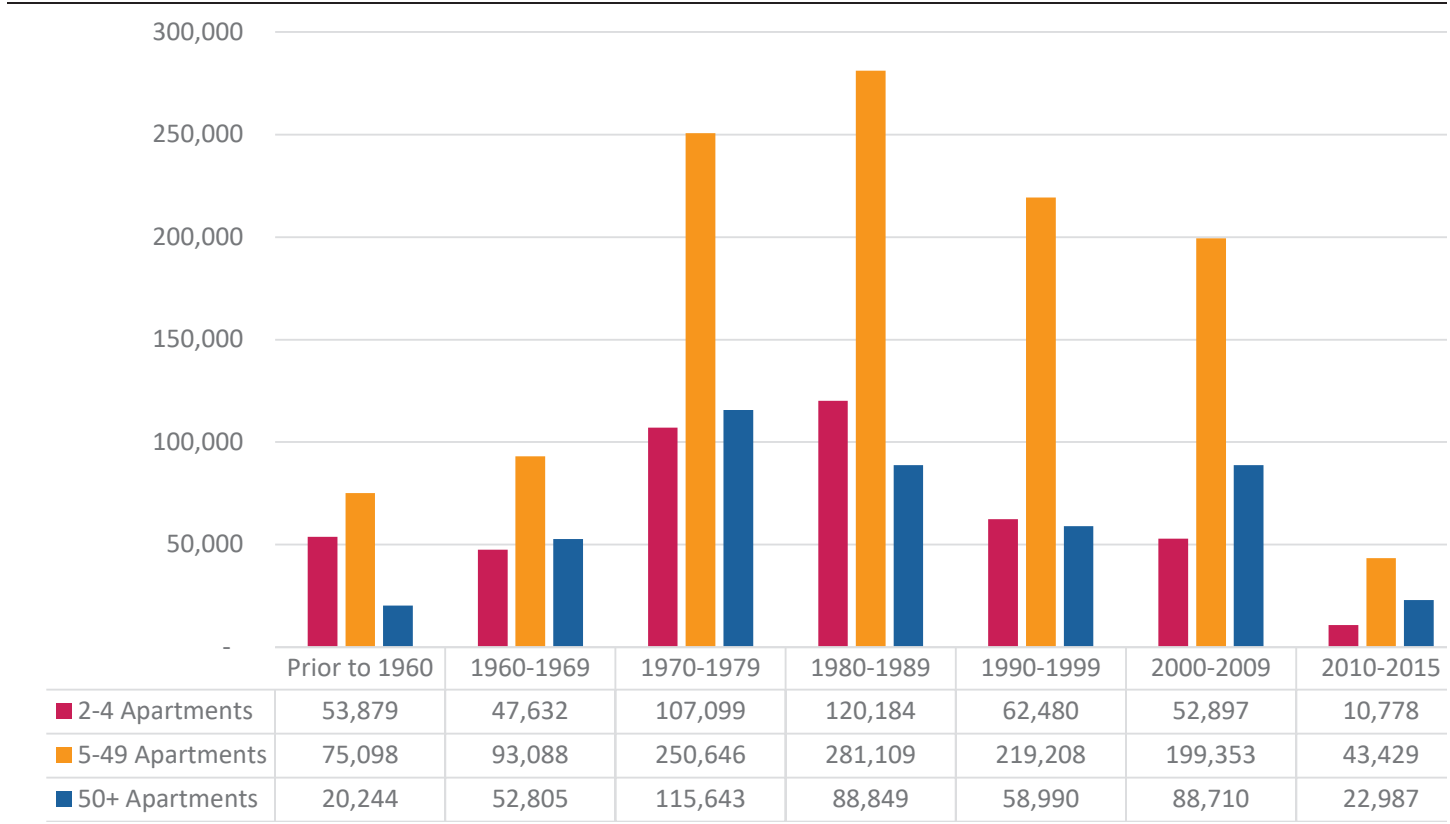
Source: U.S. Census Bureau, 2015 American Community Survey 1-Year Public Use Microdata Sample (PUMS), compiled by the Shimberg Center for Housing Studies, University of Florida.



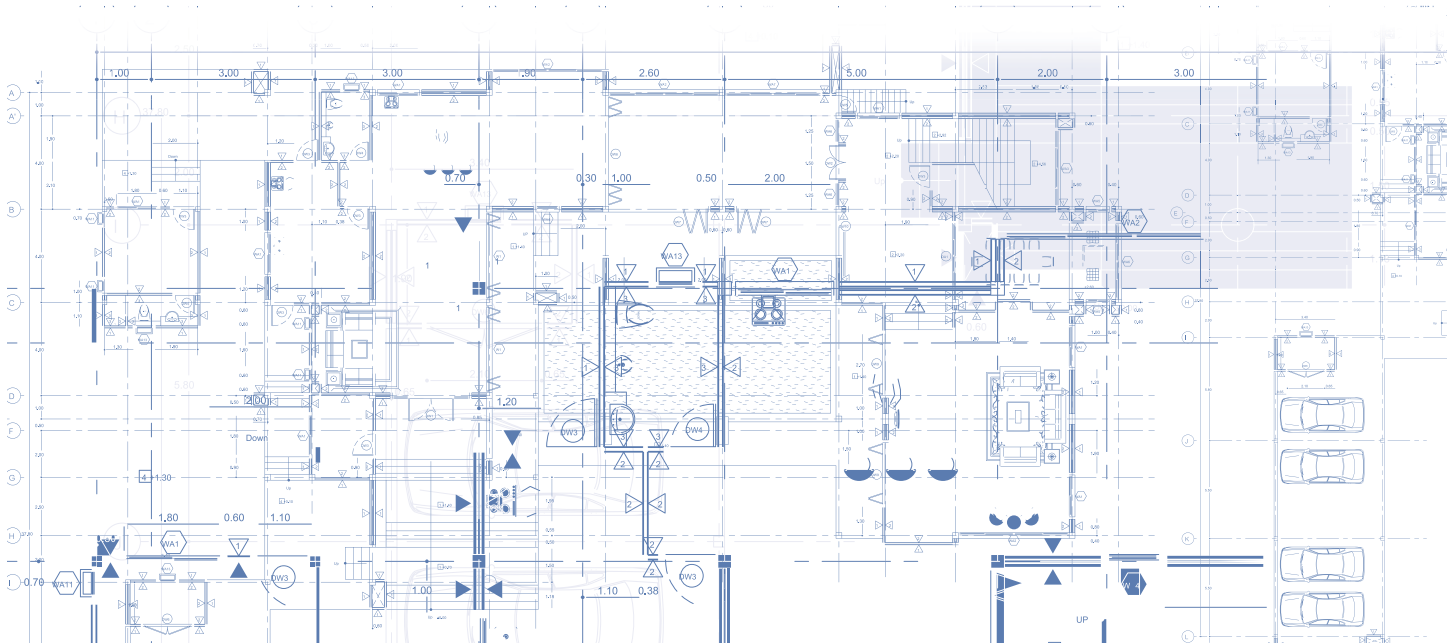
Florida’s multifamily stock is aging. Figure 3 shows the number of multifamily units built by year and building type. These include both owner- and renter-occupied units. The largest share of units in smaller multifamily

buildings (2-4 and 5-49 units) was built in the 1980s, while the largest share of units in 50+ unit buildings dates to the 1970s.

Figure 3. Occupied Units by Decade of Construction, Multi-Unit Structures, Florida, 2015



Source: U.S. Census Bureau, 2015 American Community Survey 1-Year Public Use Microdata Sample (PUMS), compiled by the Shimberg Center for Housing Studies, University of Florida.



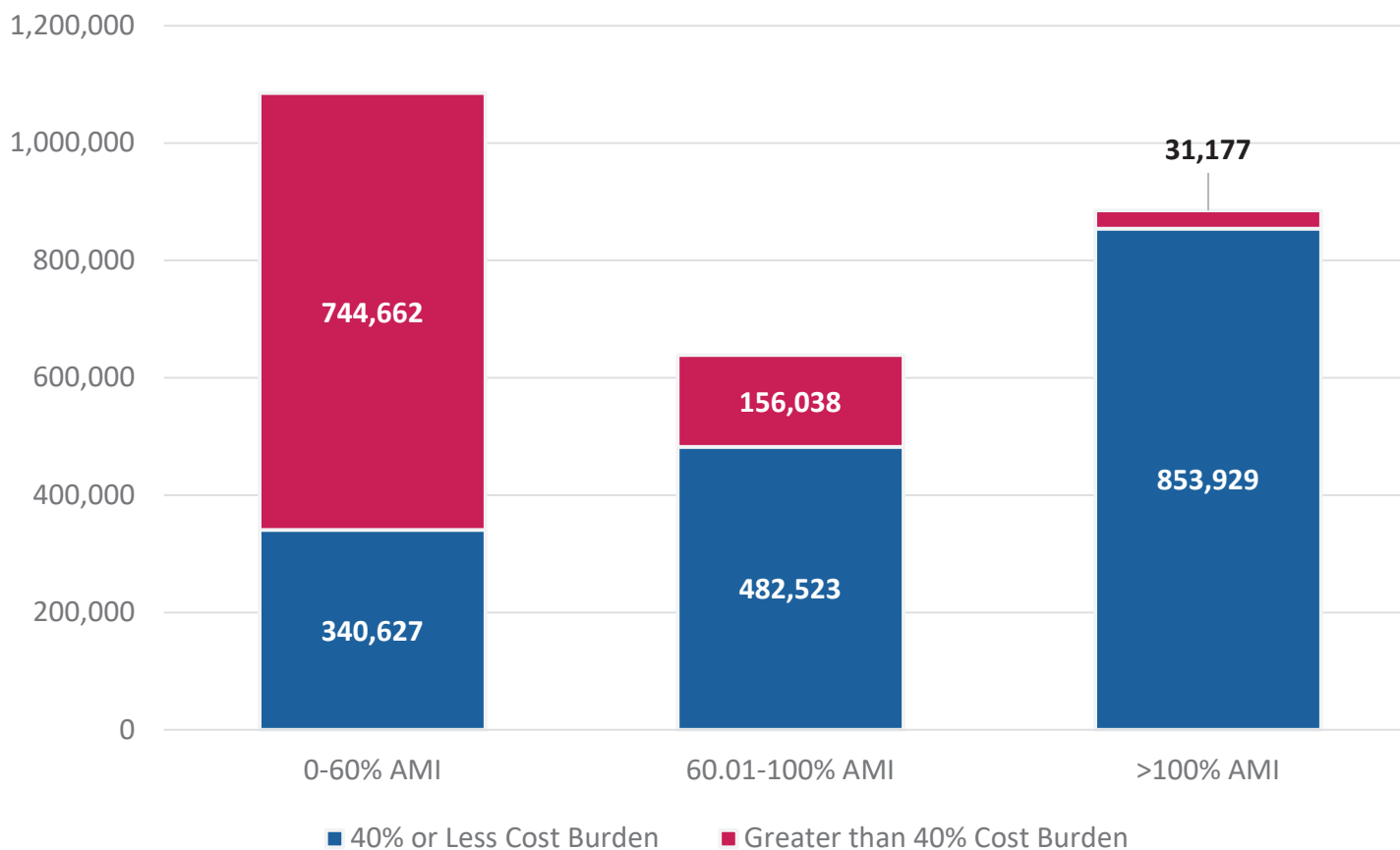
Summary of the Affordable Housing Need in Florida

Affordable Rental Housing Needs

Florida's affordable housing needs are concentrated among low income renters, defined as households with incomes at or below 60 percent of the area median income (AMI). As Figure 4 shows, most of these households are "cost burdened"; that is, they pay more

than 40 percent of their income for rent and utilities. Sixty-nine percent of renters with incomes at or below 60 percent of AMI are cost burdened, compared to 24 percent of renters at 60-100 percent of AMI and just 4 percent of renters with incomes above 100 percent of AMI.

Figure 4. Renter Households by Cost Burden and Income (% AMI), Florida, 2015



Source: U.S. Census Bureau, 2015 American Community Survey 1-Year Public Use Microdata Sample (PUMS), compiled by the Shimberg Center for Housing Studies, University of Florida.

While Florida's renter population has greatly increased over the past 15 years, the supply of affordable rental units has grown much more slowly. Figure 5 traces the changes in Florida's rental supply. An "affordable" unit is any market rate, subsidized, or public housing unit for which a household at 60 percent of AMI would pay no more than 40 percent of income for gross rent.

As Figure 5 shows, between 2000 and 2015, Florida added 869,189 rental units, but only 15 percent of these were affordable units. As a result, the share of the state's rental supply that could be considered affordable dropped from 75 percent in 2000 to 57 percent in 2015.

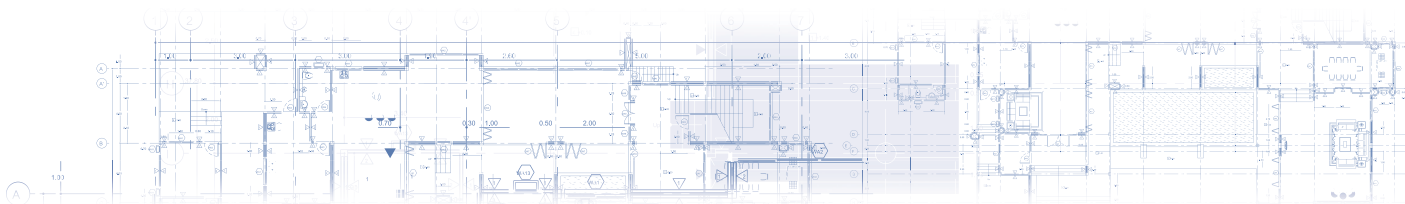
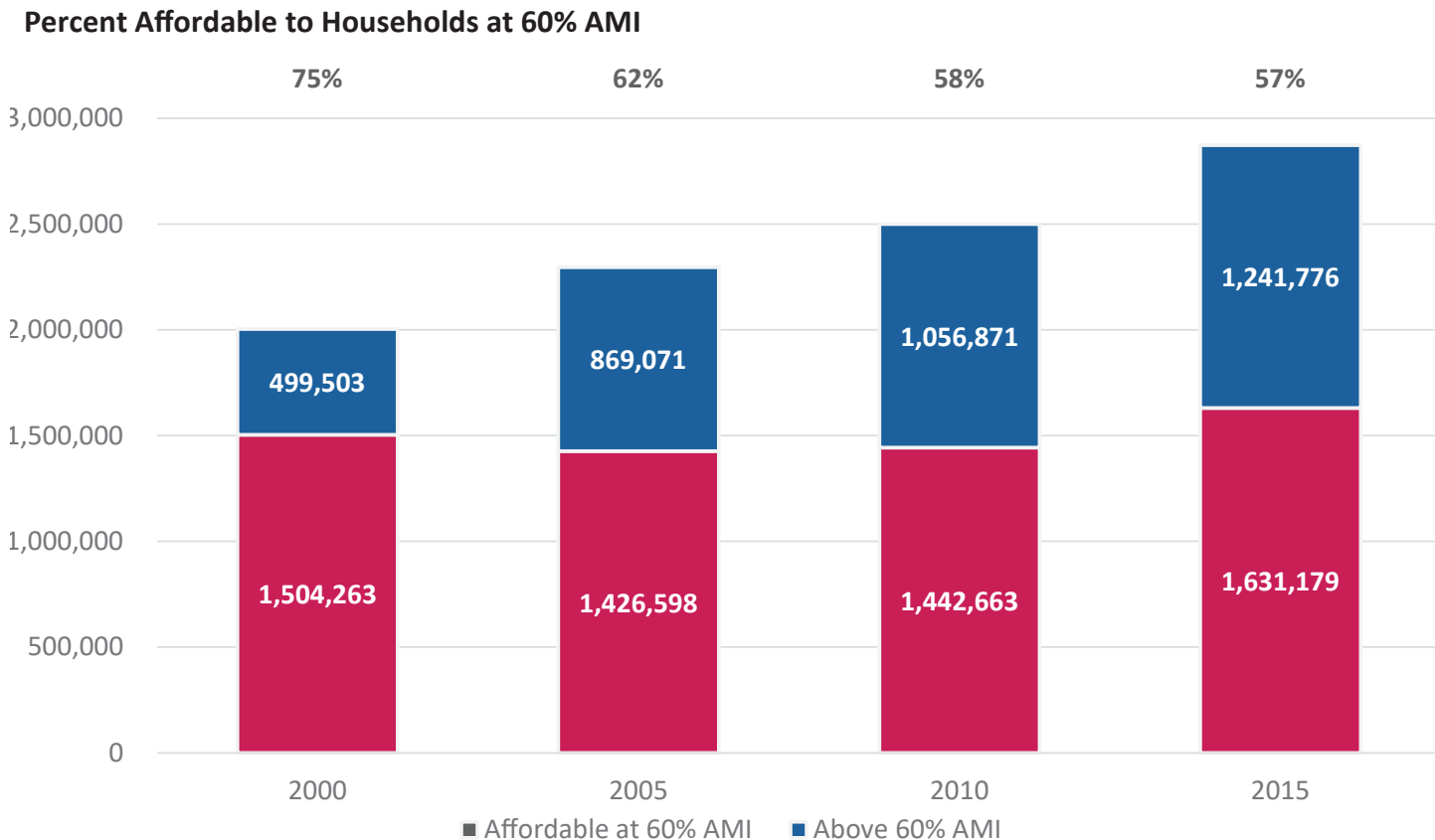


Figure 5. Rental Units by Affordability Level, Florida, Change from 2000 to 2015



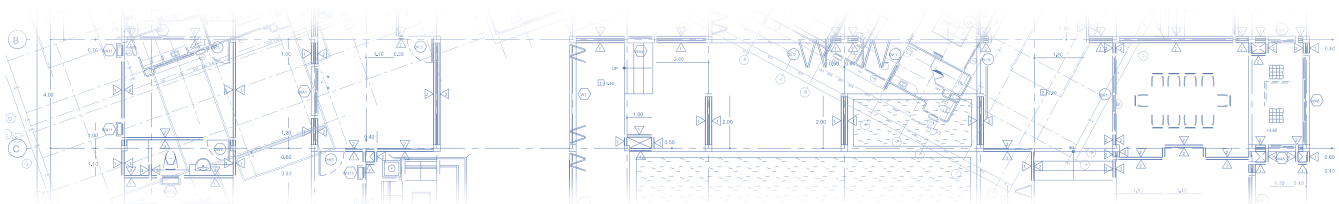
Source: U.S. Census Bureau, 2000 Census and 2005/2010/2015 American Community Survey 1-Year Public Use Microdata Sample (PUMS), compiled by the Shimberg Center for Housing Studies, University of Florida.

Moreover, many units that might be affordable for low income households are effectively unavailable to them because they are occupied by higher income households, mainly market-rate units. An “affordable/available” unit is both affordable at a given income threshold and either vacant or occupied by a household below that income threshold.

Figure 6 shows the availability of affordable units to renter households below a series of income thresholds (30 percent of AMI, 40 percent of AMI, and so forth). The bars represent affordable units, either available (red) or occupied by a household above the income threshold (blue). Squares represent the number of renters at or

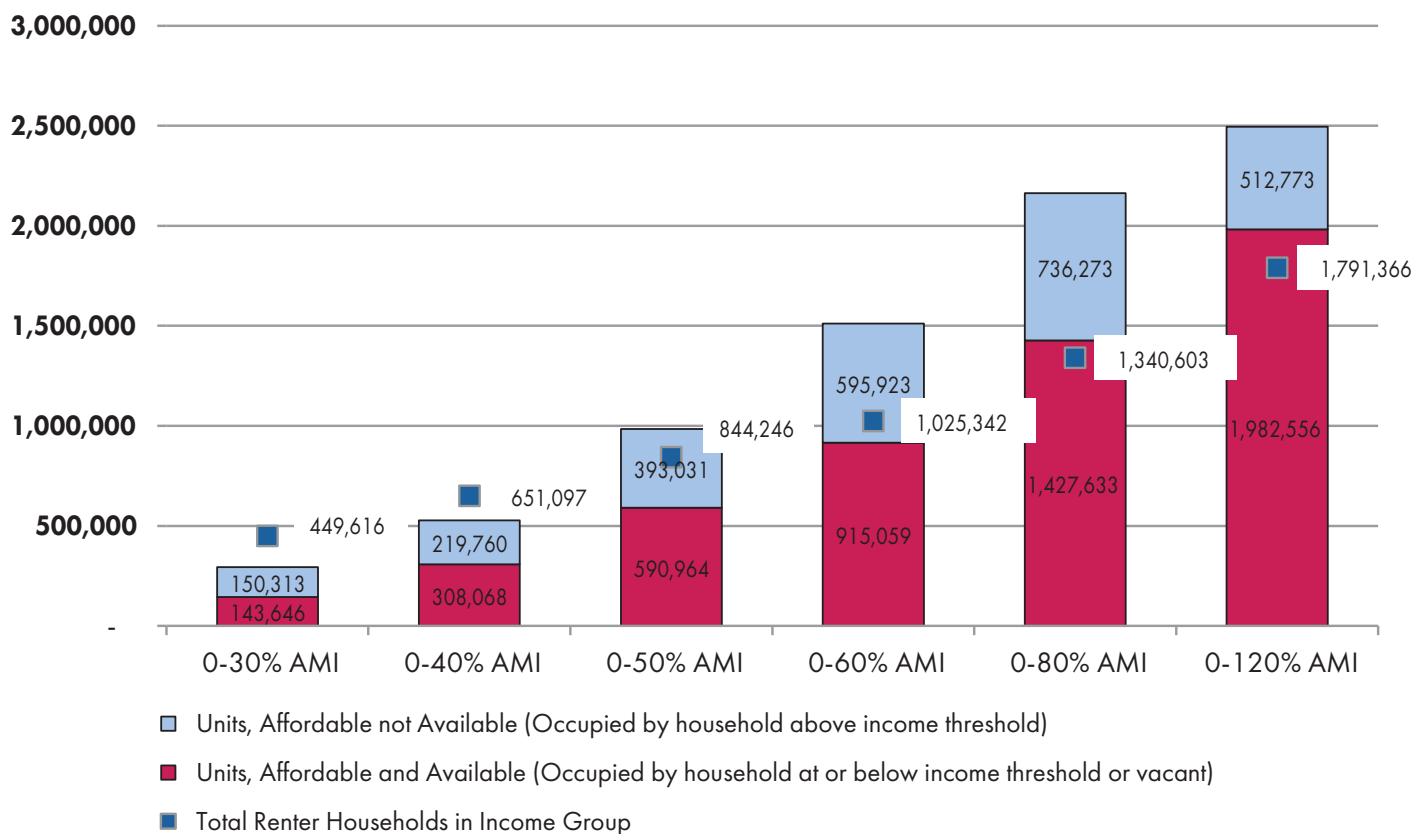
below the income threshold. Again, a unit is “affordable” if its gross rent is at or below 40 percent of income for each income threshold.

As Figure 6 shows, at 0-30 percent and 0-40 percent AMI, there are more renter households than affordable units, whether available or not. At 0-50 percent and 0-60 percent AMI, there are more affordable units than renters, but still a shortage of affordable and available units, since many affordable units are rented by households with higher incomes. For the 0-80 percent and 0-120 percent AMI bands, the number of affordable and available units exceeds the number of renter households.



Summary of the Affordable Housing Need in Florida

Figure 6. Affordable Units, Affordable/Available Units, and Renter Households by Income, Florida, 2010-2014



Source: U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Public Use Microdata Sample (PUMS), compiled by the Shimberg Center for Housing Studies, University of Florida.

Rental Housing Needs of Subpopulations

The 2016 Statewide Rental Market Study prepared for Florida Housing by the Shimberg Center estimates subpopulations potentially in need of affordable rental housing:

Older Adults (age 55 and older): Statewide, 31 percent of cost burdened renter households are headed by persons age 55 and older, including five percent headed by someone age 75-84 and four percent headed by someone age 85 or older. In all, there are 234,231 low income, cost burdened older renter households.

Homeless Families and Individuals: An estimated 32,533 individuals were homeless in Florida in 2016, including single adults, married adults without children, unaccompanied youth, children in sibling groups or other similar groups, and adolescent parents with children. An estimated 32,304 families with children were homeless. This includes 3,053 sheltered and unsheltered families

and 29,251 families doubled up with others and in hotels and motels.

Farmworkers: Florida had an estimated 105,395 farmworkers in 91,987 households: 61,091 unaccompanied individuals and 30,896 family households. Statewide, there were 61,091 unaccompanied workers and 34,451 permitted migrant camp beds, yielding a need for 26,640 additional beds for single workers. There were 30,986 accompanied households and 5,591 multifamily farmworker set-aside units, yielding a need for 25,305 additional multifamily units.

Special Needs Households: The Rental Market Study estimated that 119,324 households with special needs were potentially in need of affordable rental housing. These included 107,856 cost burdened renter households receiving disability-related benefits; 8,295 households being served by domestic violence emergency shelters; and 3,173 young adults aging out of foster care.

Florida’s Subsidized Rental Housing

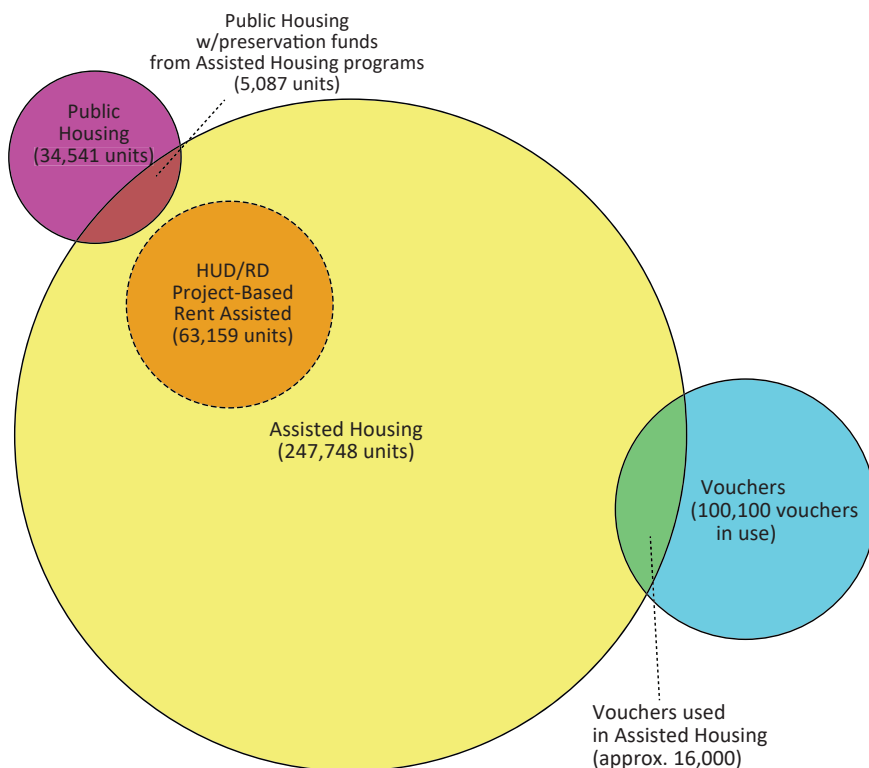
There are three types of publicly subsidized rental housing units in Florida:

- Assisted housing consists of privately owned, publicly assisted developments. The for profit and nonprofit owners of assisted housing accept restrictions on tenant incomes and rents in exchange for government subsidies such as low-cost loans, grants and rent subsidies. Major assisted housing funding sources include the Low Income Housing Tax Credit, State Apartment Incentive Loan, HUD and USDA mortgages and rental assistance, and private activity bond financing from the state and local housing finance authorities.
- Public housing is both publicly funded and publicly owned. Local public housing authorities own and manage public housing, with funding from the U.S. Department of Housing and Urban Development (HUD).
- Housing Choice Vouchers are monthly rent subsidies that are provided to individual tenants so that they can afford housing available on the private market. Vouchers are funded by HUD and administered by public housing authorities.

As Figure 7 shows, the assisted housing stock is by far the largest source of subsidized rental housing in the state. The different types of assistance can overlap when vouchers are used in assisted units or funding from Florida Housing is used to preserve public housing developments.

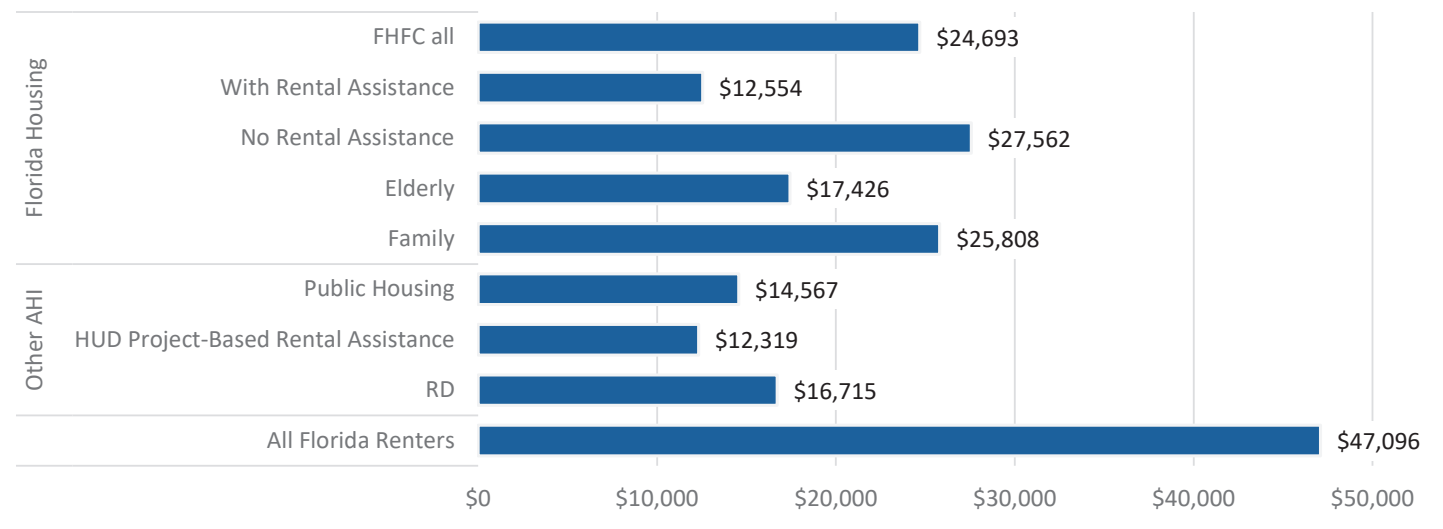
Florida’s public and assisted housing units serve renters with incomes well below the state average (Figure 8). The average income for all renters in the state was \$47,096, nearly double the average of \$24,693 in Florida Housing properties. Incomes are particularly low in developments with ongoing federal rental assistance, including those with project-based rental assistance from HUD or USDA, public housing, and Florida Housing units with voucher holders. Tenants in these units generally pay 30 percent of their income for housing costs, with the federal government providing ongoing funding to make up the difference between that amount and the total rent for the unit.

Figure 7. Types of Subsidized Rental Units



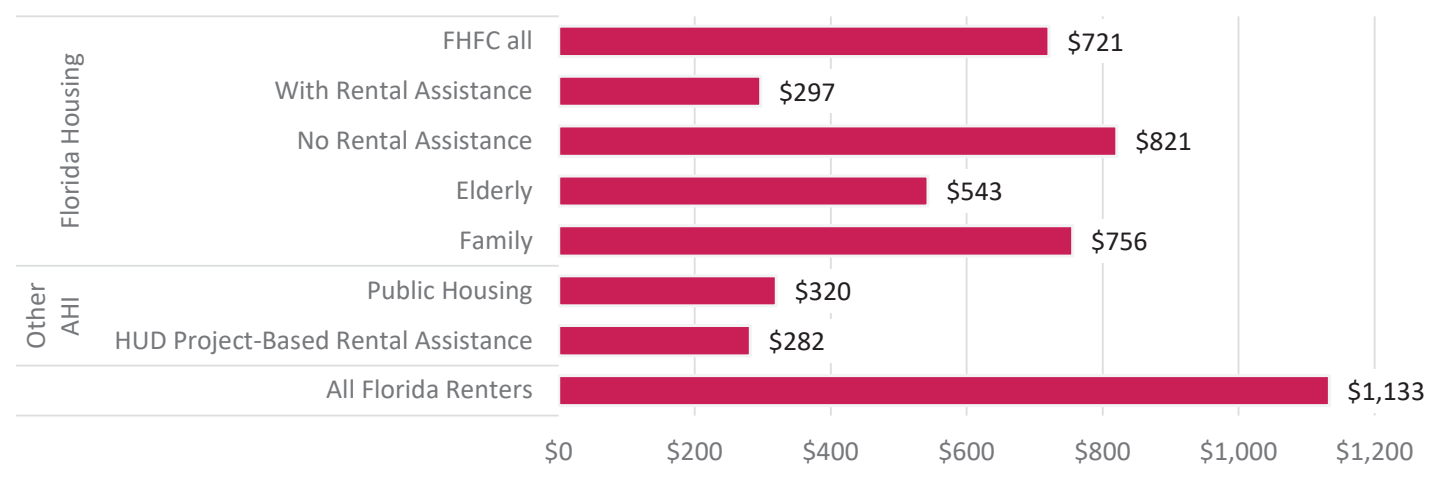
Summary of the Affordable Housing Need in Florida

Figure 8. Average Annual Household Income, 2016



Source: Shimberg Center for Housing Studies, Assisted Housing Inventory; U.S. Census Bureau, 2015 American Community Survey 1-Year Public Use Microdata Sample (PUMS). "All Florida Renters" numbers refer to 2015. Compiled by the Shimberg Center for Housing Studies, University of Florida.

Figure 9. Average Tenant-Paid Gross Rent (Rent + Utilities), 2016



Source: Shimberg Center for Housing Studies, Assisted Housing Inventory; U.S. Census Bureau, 2015 American Community Survey 1-Year Public Use Microdata Sample (PUMS). "All Florida Renters" numbers refer to 2015. Compiled by the Shimberg Center for Housing Studies, University of Florida.

Similarly, tenants pay much lower rents in public and assisted housing than in the state's overall housing stock. As shown in Figure 9, the average tenant-paid gross rent for all Florida Housing units was \$721 per month in 2016, compared to \$1,133 for all units. Again, deep federal rental assistance enabled residents of public housing and other federally assisted units to pay the lowest rents by far, under \$400 per month on average.

A Report on the ALICE Population

The United Way of Florida issues a regular report on the "ALICE population" – Asset Limited, Income Constrained, Employed families that do not earn enough to afford basic necessities. The United Way defines ALICE households as having incomes above the Federal Poverty Level, but still struggle to afford basic necessities. The "AT-A-Glance" data from the 2017 ALICE report are provided on the following pages.

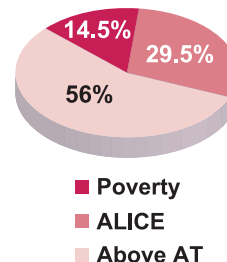
AT-A-GLANCE: FLORIDA (2015 DATA)

Point-in-Time Data

Population: 20,271,272 | Number of Counties: 67 | Number of Households: 7,458,155

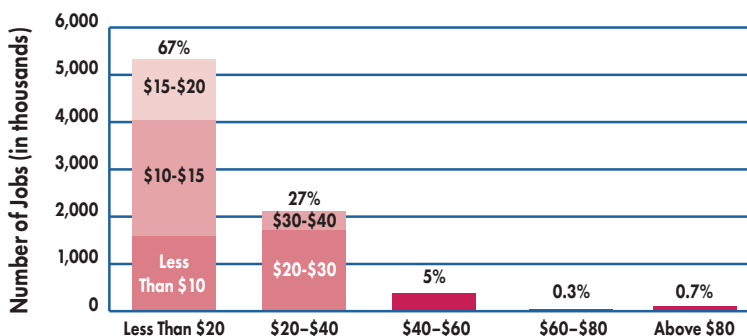
How many households are struggling?

ALICE, an acronym for Asset Limited, Income Constrained, Employed, are households that earn more than the Federal Poverty Level (FPL), but less than what it costs to survive (the ALICE Threshold, or AT) for the state. Of Florida’s 7.5 million households, 14.5 percent earn below the FPL and another 29.5 percent are ALICE, well above the 2007 level.



How much does ALICE earn?

In Florida, 67 percent of jobs pay less than \$20 per hour, with three-quarters of those paying less than \$15 per hour. Another 27 percent of jobs pay between \$20 and \$40 per hour. Only 5 percent of jobs pay above \$40 per hour.



What does it cost to afford the basic necessities?

This bare-minimum Household Survival Budget increased by an average of 19 percent from 2007 to 2015, while the rate of inflation was 14 percent. Affording only a very modest living, this budget is still significantly more than the Federal Poverty Level of \$11,770 for a single adult and \$24,250 for a family of four.

Average Monthly Costs, Florida, 2015			
	SINGLE ADULT	2 ADULTS, 1 CHILD, 1 PRESCHOOLER	2007-2015 PERCENT INCREASE
Monthly Costs			
Housing	\$609	\$842	22%
Child Care	N/A	\$1,015	10%
Food	\$165	\$547	14%
Transportation	\$326	\$653	2%
Health Care	\$164	\$628	>48%*
Miscellaneous	\$145	\$408	19%
Taxes	\$189	\$395	20%
Monthly Total	\$1,598	\$4,488	19%
ANNUAL TOTAL	\$19,176	\$53,856	19%

* Increase in out-of-pocket health care costs from 2007 to 2015 was 48 percent; increase including ACA penalty was 74 percent. Note: Percent increases are an average of the percent change in each category for a single-adult and for a four-person family. Source: American Community Survey, U.S. Department of Housing and Urban Development (HUD); U.S. Department of Agriculture (USDA); Bureau of Labor Statistics (BLS); Internal Revenue Service (IRS) and Florida Department of Education, 2015.

AT-A-GLANCE: FLORIDA, 2015

Point-in-Time Data

Population: 20,271,272 | Number of Counties: 67 | Number of Households: 7,458,155

Florida Counties, 2015		
County	Total HH	% ALICE & Poverty
Alachua	96,427	46%
Baker	8,205	46%
Bay	69,337	41%
Bradford	8,770	50%
Brevard	225,682	34%
Broward	673,870	44%
Calhoun	4,784	58%
Charlotte	72,671	40%
Citrus	60,541	43%
Clay	71,733	33%
Collier	134,906	33%
Columbia	24,238	45%
DeSoto	11,238	58%
Dixie	6,051	55%
Duval	343,467	37%
Escambia	116,814	38%
Flagler	39,281	45%
Franklin	4,338	51%
Gadsden	16,964	56%
Gilchrist	6,187	50%
Glades	3,920	65%
Gulf	5,349	49%
Hamilton	4,688	57%
Hardee	7,618	65%
Hendry	11,345	64%
Hernando	70,713	42%
Highlands	41,116	49%
Hillsborough	503,154	42%
Holmes	6,828	56%
Indian River	55,494	40%
Jackson	16,309	58%
Jefferson	5,411	49%
Lafayette	2,493	57%
Lake	126,519	41%

Florida Counties, 2015		
County	Total HH	% ALICE & Poverty
Lee	263,694	43%
Leon	109,209	41%
Levy	15,516	50%
Liberty	2,433	52%
Madison	6,614	56%
Manatee	134,690	43%
Marion	125,227	47%
Martin	65,101	41%
Miami-Dade	857,712	61%
Monroe	31,391	46%
Nassau	29,674	37%
Okaloosa	76,721	33%
Okeechobee	13,046	58%
Orange	457,736	43%
Osceola	98,301	60%
Palm Beach	545,780	40%
Pasco	192,628	42%
Pinellas	400,209	41%
Polk	227,122	51%
Putnam	28,165	52%
Santa Rosa	60,861	33%
Sarasota	177,807	33%
Seminole	162,739	37%
St. Johns	83,247	28%
St. Lucie	108,811	46%
Sumter	48,039	42%
Suwannee	15,649	48%
Taylor	7,605	55%
Union	3,883	70%
Volusia	209,657	42%
Wakulla	10,691	39%
Walton	23,490	42%
Washington	8,246	51%



Funding to Implement Florida's Affordable Housing Programs

Funding for Sadowski Act Programs

Florida recognized the need for affordable housing with the creation of the Florida Housing Finance Agency (precursor to the Florida Housing Finance Corporation) in 1980. The primary funding mechanism for the agency was federal Bond financing, with money borrowed through the sale of tax exempt bonds for loans to first-time homebuyers and developers of affordable rentals. But Florida Housing found that down payment assistance and gap financing were needed to make these bond transactions work. To this end, the 1988 Legislature created the Homeownership Assistance Program (HAP) and the State Apartment Incentive Loan (SAIL) rental program.

However, there was no reliable source of revenue to fund Florida's housing programs. Between 1988 and 1992, the programs were funded with general revenue, with inconsistent and unreliable funding levels. The William E. Sadowski Act was enacted by the Legislature in 1992. Two trust funds were created: the local government and state housing trust funds. Today, 70 percent of specified revenues go into the local fund, and 30 percent to the state fund. The local fund is meant to provide monies for the State Housing Initiatives Partnership, or SHIP, Program, which provides funding to all 67 counties and the large, entitlement cities. The state trust fund is mainly used to provide monies for the state programs.

The source of funding is the documentary stamp tax on real estate deeds. The "doc" stamp tax was chosen for two reasons. First, there is a rational nexus between real estate activity and housing. Second,

and more importantly, doc stamp revenues increase as the population grows, more real estate transactions occur and housing prices increase. This is particularly important in Florida, which generally has high population growth.

From 1992 through 2002, the Legislature routinely appropriated all monies in the trust funds for housing programs. In 2003, sweeps were proposed to the trust funds for the first time, and in 2005 a cap limiting the distribution of doc stamp revenue into the trust funds was adopted. This \$243 million cap came at a time when doc stamp revenues were very high – \$450-\$600 million/year. The cap was repealed in 2011, but in that same year the State Economic Enhancement and Development (SEED) Trust Fund was created, with funding partially provided by \$75 million taken off the top of the housing trust funds. The SEED trust fund is still in place today.

During the Great Recession, most housing trust fund monies were swept to general revenue because of huge revenue shortfalls. After the Recession ended, the Legislature has continued to sweep monies, although appropriations for housing programs recently have increased.

A total of \$6.3 billion has flowed into the two housing trust funds since 1992. Of this, close to \$4.3 billion has been appropriated for housing programs, and fully \$2.0 billion has been swept for other purposes – approximately one-third of the distributions over 25 years.

Funding to Implement Florida’s Affordable Housing Programs

The Workgroup wanted to understand how many units have been forgone – that is, not funded or built – because of these swept funds. Based on program funding per unit over time, the Workgroup found that approximately 165,000 units, mainly homeownership, were not provided financing over 25 years.

State housing programs leverage federal housing funding. Together these programs create important economic benefits for Florida. The Florida Realtors 2016 study showed that between 2006 and 2016, considering only the SAIL and SHIP programs, the total economic impacts were \$12.4 billion, 94,000+ jobs and almost \$3.0 billion in wages in Florida.

WORKGROUP FINDING

At each of its four meetings, the Workgroup heard from the public and received many written comments. While many ideas were presented to the Workgroup, a consistent theme from the public is the continued need for resources to meet Florida’s housing needs. The Workgroup finds that it is essential for the State of Florida to appropriately invest in affordable housing. Not only are the state funds important on their own, but they leverage critical federal financing, all of which works together to create important employment and economic benefits for the state. The housing need was already significant before Hurricane Irma struck the state.

Recommendation: The Legislature should appropriate all Sadowski funds in the State and Local Government Housing Trust Funds solely for Florida’s affordable housing programs.





Land Use for Affordable Housing Development

How Land Use Impacts Affordable Housing

“Land use” involves the management and modification of both the natural and built environment to specify how it will be used. These decisions are typically determined at the local level, but impacted by federal and state land decisions as well. In Florida, local governments specify land uses in their adopted comprehensive plans, using zoning and land development regulations to provide the rules for the development process. Thus, land use may be thought of as the regulation of the use and development of real estate.

Planners and policymakers generally agree that land use controls increase the cost of building housing. In addition to monetary costs of housing, land use regulation has been shown to be exclusionary in some cases – that is, regulation has been used to defend neighborhoods and communities from low income and/or nonwhite residents moving in.

Researchers note that overall, land use policies favor incumbent homeowners in a community – those who are already living there and have provided a strong voice in the community over time in the interest of maintaining the character of their neighborhoods and property values. A number of studies mention this and the difficulty of changing regulations in this political context.

Overview of Land Use Barriers

There are many land use regulations that impact housing development. While these impacts are real, most policy makers agree that land use regulation generally is useful and serves legitimate purposes. But these regulations can intentionally or inadvertently raise housing costs or prevent development of certain types of housing.

Major regulatory barriers to housing affordability are:ⁱ

- **Zoning regulations** that require large lots, greatly restrict the amount of land on which multifamily housing can be built, or mandate growth within certain boundaries.
- **Environmental regulations and laws** that discourage construction on wetlands or on land inhabited by endangered species or which dictate costly environmental impact studies.
- **Subdivision regulations** requiring “gold-plated” neighborhood amenities.
- **Historic preservation regulations** that restrict construction methods or require costly preservation of structures/facades.
- **Permitting and processing procedures** that are lengthy and often duplicative, creating higher land carrying costs.
- **Fees**, including impact fees, exactions, mitigation fees and development fees.
- **Local prohibitions against manufactured housing** in most single family areas.

Land Use for Affordable Housing Development

- **Parking regulations or other ordinances** that prohibit accessory housing units or that prevent construction of single room occupancy apartments, tiny homes and extremely small size units.

Ways barriers raise housing costs:

- **Restrictions on housing supply**, such as density limits, caps on units and allocation of large land areas for agricultural or conservation lands only.
- **Cost increases**, such as fees for various purposes, studies for environmental impacts and costly components that are part of historic preservation.
- **Delay-causing requirements**, such as lengthy permit and review processes.
- **NIMBYism (Not In My Back Yard)**, a less formal phenomenon in which citizens or neighborhoods become active in trying to prevent or restrict development.

The Monetary Cost of Land Use Regulation on Affordable Housing

Articles about land use impacts on housing mostly agree that the cost of developing housing began to diverge from the actual costs of land, materials and labor in the early 1970s as suburbanization slowed and towns began to perceive that growth could be a threat to quality of life and property values. Studies that evaluate costs across the U.S. typically note that housing affordability is more pronounced on the east and west coasts and some of the nation's bigger cities. Sanford Ikeda and Emily Washington published a paper in 2015 summarizing cost studies. Some of their findings:ⁱⁱ

- Cities were found to have regulatory impacts to housing prices of more than 10 percent.
- Built-on land can be worth many times more than vacant land on the same lot, as "surviving the regulatory process adds enormous value."
- Parking requirements can significantly increase development costs.
- Housing is not just more expensive because of regulations restricting building on previously undeveloped land, "...the effect is greater for smaller houses, making housing even less accessible to those on lower incomes."

The National Association of Home Builders has evaluated the average cost of regulation on housing over time. In its latest study in 2016, the data show that regulation accounts for an average 24.3 percent of the price of a new single family home.ⁱⁱⁱ The study finds that 54.7 percent of the finished lot cost is the result of regulation. Of the costs related to building the structure itself, 14.6 percent is related to regulation. The study used survey data from a panel of single family builders to collect information, and survey respondents said that the regulatory process adds 6.6 months to the development process, with great variation in times across respondents and locales.

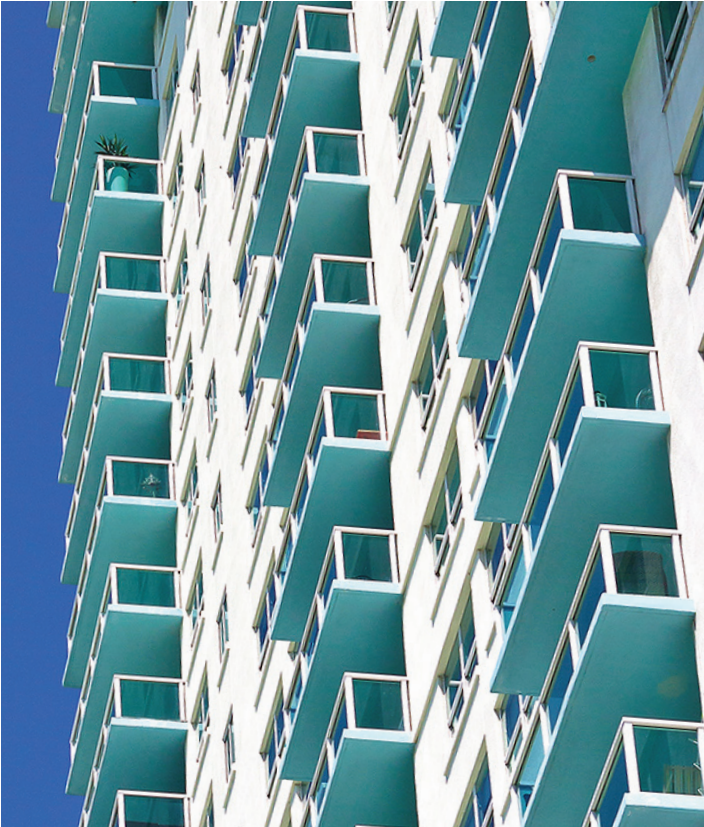
The Exclusionary Cost of Land Use Regulation on Affordable Housing

Land use regulation in the form of subdivision covenants often denied access to housing for nonwhite households as suburbs were developed after World War II. This allowed higher income communities to specify regulations such as minimum house sizes and large lot requirements to exclude less affluent residents from communities. Researchers have noted that higher income homeowners appear to be less impacted monetarily (and feel their property values are more protected) by land use regulation than lower income households that might want to purchase a first home.^{iv}

NIMBYism

The NIMBY syndrome is public opposition to proposals for unpopular projects, including housing, being sited in or near a community or neighborhood. NIMBYism not only prevents worthy projects from being built, it limits the areas in which they are built, and is considered by affordable housing developers as a major barrier to the placement of affordable housing in areas of a community that provide good schools, employment opportunities and services. At a minimum, developers faced with NIMBYism have more time delays and spend more money on technical and legal fees to address public concerns. At worst, the housing is never built.

Findings show the preconception that building new affordable housing lowers property values is usually incorrect.^v Property values are primarily determined by larger community factors such as overall community prosperity, including nearby large scale commercial and industrial development and the condition of area infrastructure.



SHIP Requirements to Mitigate Land Use Regulation Impacts

Each local government comprehensive plan must include a housing element. Section 163.3177(6)(f)3., Florida Statutes (F.S.), requires the element to “streamline the permitting process, and minimize costs and delays for affordable housing.”

The State Housing Initiatives Partnership (SHIP) program was created to “further the housing element of the local government comprehensive plan specific to affordable housing” and is thought of as the operational funding for this purpose. Local governments participating in the SHIP program are required to prepare a Local Housing Assistance Plan which serves as the guiding document for operationalizing SHIP.

At a minimum, s. 420.9071 (16), F.S., requires participating local governments to implement two strategies within SHIP: The assurance that permits for affordable housing developments are expedited to a greater degree than other projects; and an ongoing process for review of local policies, ordinances, regulations and plan provisions that increase the cost of housing prior to their adoption.

As part of its SHIP annual report process, each participating local government provides a form to Florida Housing certifying that the local government’s housing incentives or local housing incentive plan is being implemented, specifically listing the two required items above. The certification also requires local governments to specify the cumulative cost per housing unit for new construction and rehabilitated housing units from these incentives.

In addition, s. 420.9076, F.S., requires each SHIP locale to go through a triennial review of its established policies, procedures, land development regulations and comprehensive plan, and recommend actions to facilitate affordable housing. This is submitted to the governing body and provided to Florida Housing.

Florida Housing Rental Programs Encourage Waivers of Local Affordable Housing Fees. Florida Housing also incentivizes local implementation of strategies to remove such barriers. The State Apartment Incentive Loan (SAIL) program requires Florida Housing to include as part of its scoring criteria for funding, “local government contributions and local government comprehensive planning and activities that promote affordable housing.” Not only does Florida Housing accept commitments of funding for this purpose, a waiver of fees or a minimum one-year deferral of fees for the development in question may serve as the contribution.

Local Approaches to Impact Fees on Affordable Housing Development

The Legislature’s Office of Economic and Demographic Research defines impact fees as a type of regulatory fee “imposed by local governments against new development to provide for capital facilities’ costs made necessary by population growth. Rather than imposing the costs of these additional capital facilities upon the public, the purpose of impact fees is to shift the expense burden to newcomers.”^{vi} These one-time, up-front charges are usually paid at the time of building permit approval.

Impact fees have expanded and evolved substantially over recent decades, and currently appear in a wide variety of forms. In Florida, impact fees are governed through a combination of constitutional and statutory authority and case law. One way impact fees often

Land Use for Affordable Housing Development

intersect with affordable housing is through the granting of fee waivers or deferrals. These waivers or deferrals essentially represent a local government's commitment to subsidize and thereby incentivize the production of affordable housing. Though common, waivers for affordable housing are not ubiquitous. Like all issues related to impact fees, decisions to grant waivers for affordable housing are jurisdiction-specific and subject to local circumstances, vetting (including legal interpretation) and control.

Constitutional and Statutory Authority for Impact Fees.

The Florida Constitution grants local governments broad home rule powers. Regulatory fees such as impact fees are home rule revenue sources that may be imposed pursuant to a local government's police powers in the exercise of a sovereign function. Impact fees are enacted by local home rule ordinance and are tailored to meet the infrastructure needs of new growth at the local level. Given their local creation and emphasis, impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively pending on local costs, capacity needs and resources.

Case Law and the Dual Rational Nexus Test. Until 2006, the characteristics and limitations of impact fees in Florida were found almost exclusively in case law rather than state statute. The Office of Economic and Demographic Research's 2016 Local Government Financial Information Handbook summarizes the basic parameters of this history.

As developed under case law, an impact fee imposed by a local government should meet the dual rational nexus test in order to withstand legal challenge. First, a reasonable connection, or rational nexus, should exist between the anticipated need for additional capital facilities and the population growth generated by the new development. Second, a rational nexus should exist between the local government's expenditure of impact fee proceeds and the benefits accruing to the new development from those proceeds.

Impact Fee Calculations. Given the local authority to adopt impact fees, the considerations and calculations used to set fees vary. Local governments often commission outside consultant impact studies when



contemplating new or revised fees. These studies inform local government debate surrounding fees and often become the basis for proposing impact fee ordinances.

Flat or constant fees across houses or apartments provide one of the most basic methods for establishing residential impact assessments. While relatively easy to calculate and administer, the use of fixed amounts is often deemed regressive. HUD has opined that, "Flat rate impact fees compromise affordability and are socially negative to the degree they systematically overcharge purchasers in smaller, less expensive houses or apartments and undercharge others in the most valuable houses."^{vii}

Beyond simple flat fees, among the most common residential variables used to calculate impact fees are:

- Dwelling Unit Type (e.g., single-family detached, townhouse, condominium, apartment);
- Number of Bedrooms; or
- Size in Square Feet.

Modifying or Waiving Impact Fee Requirements for Affordable Housing. No matter what methodology is used to calculate and set impact fees, implicit is the notion that they apply to all groups, categories of construction or activities that create a demand for the facilities or services designated. To lessen the brunt of impact fees on affordable housing developments, many local governments in Florida pursue alternative methods of fee payment for affordable housing. While often characterized as "waivers," the fees are ultimately subsidized from another revenue source.

Though many local governments assert the necessity of replacing surrendered impact fees, there is no direct statutory provision prohibiting waivers. Because impact

fee authority (and the associated ability to waive fees) is derived from constitutional home rule powers, case law remains an important current and ongoing influence.

Canvassing SHIP Administrators on Local Government Impact Fees. To provide context for the Workgroup, Florida Housing staff queried local SHIP Administrators regarding impact fee calculations and waivers in their locales (a table summarizing the information gathered is found in the appendix of this report). Responses from the 80+ reporting local governments (out of 119) varied widely. The range of methodologies utilized to set fees, combined with the assorted waiver policies linked to affordable housing, reflect the disparate nature of impact fees across the state.

Approximately one-quarter of the responding cities and counties do not currently levy any impact fees. For those which do levy impact fees, calculations based on unit type are common. These unit type calculations were cited by approximately 60 percent of respondents levying fees. Sometimes, the unit type calculation is further delineated by square footage metrics (about 33 percent referenced usage of square footage, either exclusively or in combination), numbers of bedrooms, geographic locations within the city or county, or resident status as a senior citizen. Flat fee rates were cited by just under 30 percent of the respondents. Finally, nearly 30 percent of the reporting local governments provide mechanisms to waive fees in part or whole for affordable housing.

WORKGROUP FINDING

The Workgroup's review and discussion of impact fee processes across the state confirmed the location-specific character of fees as provided for through home rule powers. In areas where impact fees are waived in some manner for affordable housing, the waivers can act as catalysts for affordable housing by mitigating development costs.

Recommendation: The Workgroup recommends that local governments assessing impact fees either waive fees outright for affordable housing or establish local dedicated funds to make such affordable housing waivers possible.

USING LAND USE TOOLS TO INCENTIVIZE AFFORDABLE HOUSING DEVELOPMENT

Density Bonus Programs

A city or county's zoning laws typically establish a limit on how many residential units can be built in specific areas and upon certain lot sizes or gross acres within those areas. Limits vary across jurisdictions and are determined through local planning processes. Some land use regulations also include density bonus programs that are designed to stimulate the supply of more affordable housing in specific areas of a municipality.

A density bonus is an incentive-based tool that allows developers to build housing units at a higher density in exchange for providing all or some of the housing units at affordable levels to lower income or specific demographic groups such as seniors or persons with special needs. In some cases, density bonus programs permit developers to build a higher number of market rate units than what would normally be allowed for an area, in exchange for including a certain number or percentage of affordable housing units in the development.^{viii} In other cases, affordable-only developments are permitted to add more affordable units to the development. The additional market rate or affordable bonus units allow a developer to recover costs and revenue that are lost from providing affordable units with lower rent restrictions.

Occasionally, density bonus programs also give developers the option to pay a cash contribution to the local government in lieu of providing more affordable units. These contributions are then used to support the local government's affordable housing programs.^{ix}

Florida authorizes local governments to provide density bonus incentives to developers that donate land to the local government for affordable housing pursuant to s. 420.615, F.S. This law is in place to encourage local governments to adopt an additional approach to foster development of affordable housing. In this case, the density bonus need not be related to the affordable development itself, but is in exchange for the land donation which may be located in a different area from the land receiving the density bonus.

Land Use for Affordable Housing Development

A critical foundation for a comprehensive density bonus program is to ensure proper zoning and land use laws are in place to accommodate reasonable density increases and promote opportunities for multifamily affordable housing development.^x Density bonus incentives are more effective when applied in high density areas or in large-scale planned developments.^{xi}

To combat housing affordability issues in areas, such as downtowns, a local government may target and permit density bonus incentives.^{xii} If a local government offers density bonuses for a variety of housing and other building types, its usefulness for affordable housing will be diminished. For density bonus incentives to be effective in creating additional affordable housing, they must be focused on affordable housing and rarely or never used for other purposes.

Zoning laws establishing a density bonus program typically include a set of qualifications and conditions that a developer must meet to participate in the program, including:

- Set-aside amounts that specify how many units must be reserved for affordable housing;
- Income restrictions that specify the income and/or demographic groups the development must serve, as well as associated rent restrictions;
- Affordability periods that specify how long the units must remain affordable; and
- Location requirements that dictate where affordable development must occur.

Allowing Micro-Units to Create More Affordable Housing^{xiii}

In urban areas, single-person households are commonly priced out of the rental housing market. Micro-units are a common solution to this problem world-wide. Micro-units vary in size, but they are small studio apartments, typically less than 350 square feet with a functional kitchen and bathroom. Micro-unit housing is built either as a development that consists entirely of micro-units or as part of a development that includes a mix of apartments. The current market approach finds more micro-unit development in dense urban downtown regions that are close to major employment centers and neighborhoods rich with amenities.

Consumer research has found that, increasingly, U.S. individuals are willing to trade the size and space commonly found in conventional units for housing that is lower in rent and located in a prime location. This opens the possibility that within the right environment micro-units could be an attractive and less expensive option for lower income, single-person households. This is worth considering in Florida where 62 percent of cost burdened, lower income households contain one or two persons.^{xiv}

Example of a Micro-Unit Floorplan



Source: Curbed NY, *What is a Micro Home*

Micro-Units as an Affordable Housing Option. Market rate micro-units are commonly developed for young single professionals with a low need for space and/or low desire to socialize inside their units. Tenants in this market group typically live in their unit for one or two years, and then leave to reside in a larger, more conventional apartment due to a change in family structure or a general desire for more space.

The location of a development is often the top reason an individual chooses to rent a micro-unit over a larger conventional unit. However, price is still a factor and prospective tenants are more likely to rent a micro-unit when it is priced approximately 25-30 percent below the cost of renting a conventional one or two-bedroom apartment. Access to external community and neighborhood amenities is also very important for the average micro-unit tenant.

A review of recent micro-unit affordable developments reveals that some local and state governments have provided tax benefits, low interest loans and Housing Credits to finance micro-unit developments that include all or a portion of income restricted units.

In some cases, local land use regulations impose barriers to micro-unit development, mainly due to higher minimum

dwelling size limits and parking requirements for new developments. Overcoming zoning or land use barriers to development requires local government intervention, such as waivers, new ordinances or revisions to land use regulations.

Accessory Dwelling Units

Section 163.31771, F.S., encourages and authorizes local governments to permit rent restricted accessory dwelling units (ADUs) in single family residential areas to increase the availability of affordable rentals. State law defines ADUs as an ancillary or secondary living unit that has a separate kitchen, bathroom and sleeping area within the same structure or lot as the primary residence. ADUs are typically smaller than the primary residence of the homeowner and are occasionally labeled in the housing market as private accessory dwellings, mother in-law suites or granny flats.^{xv}

Under the state law, local governments can adopt an ordinance that limits the rental rate of permitted ADUs. Homeowners permitted construction under this type of ordinance must sign an agreement to rent the ADU at an affordable rate to specific income groups. Local governments have the power to permit ADUs without this law, but the law emphasizes the use of ADUs to increase the supply of affordable rental housing.

Barriers to Accessory Dwelling Unit Development.

Permitting the development of accessory dwelling units is a way for local governments to produce affordable housing without having to invest public monies.^{xvi} However, factors such as land use regulations and public opinion often present a barrier to the development of ADUs. Some local government zoning regulations primarily permit single-use, single family housing in their residential areas. In these cases, to enable ADU development the zoning code would need to be amended to permit more than one unit per lot. Land use regulations such as minimum off-street parking requirements, height limitations, minimum lot size and setback requirements also constrain ADU design and development and add to the cost of construction for the homeowner.^{xvii} Regulations may also restrict ADUs to be built only under special circumstances, such as limiting the use of the unit to immediate family members.

Neighborhood views on the character and values of their community can create additional barriers to the development of ADUs. Communities may object to allowing renters in their neighborhood due to the negative perception that renters will increase traffic, parking and/or decrease their property values.^{xviii} Other factors such as high construction costs, limited financing for ADU construction and a homeowner's limited experience of the permitting process can also contribute to the lack of ADU development.^{xix}

Benefits. Research shows that ADUs can increase the supply of affordable housing, increase property values as well as provide home owners the benefit of extra income.^{xx} Raised property values and extra income garnered from the rental property can make a homeowner's primary residence more affordable.^{xxi} ADUs are generally offered for rent below market rate, so are primed to serve people with lower incomes.^{xxii}

Florida law offers a financial benefit to homeowners who construct living quarters, such as ADUs for their parents or grandparents. Section 193.703, F.S., grants counties the power to provide homeowners a reduction in the assessed value of their homestead property if a parent or grandparent is at least 62 years old and resides in a housing unit constructed on the homestead property.^{xxiii}

Minimizing Parking Requirements to Lower the Cost of Affordable Housing

A 2014 Urban Land Institute (ULI) study on solutions to increase the supply of affordable rentals revealed that developers cited minimum parking requirements as the greatest regulatory barrier to housing development.^{xxiv} This regulation is primarily viewed as a hindrance because of the additional construction costs that are incurred to fulfill high parking minimums set by local governments. UCLA research from 2016 also noted that more planners and city officials are recognizing that parking requirements reduce the supply of affordable housing and increase housing costs.^{xxv}

Off-street parking requirements mandated by local governments add to the overall cost of developing new housing. This cost increases considerably for housing in urban areas where land values are high. The 2016 parking cost study by Victoria Transport Policy Institute (VTPI) found that on average, one off-street parking

Land Use for Affordable Housing Development

space, which is approximately 250-350 square feet, adds close to six percent to a dwelling unit cost and two parking spaces adds about 16 percent to a unit cost.^{xxvi}

A 2012 Furman Center study on parking requirements and housing affordability found that developers in many dense urban areas pay for parking construction costs upfront, but costs not recouped through residential parking fees may be passed on to tenants through higher rents.^{xxvii} This disproportionately impacts lower income tenants who typically have lower car ownership but are still required to take on the increase in housing costs caused by parking construction costs.

By limiting the additional cost of parking, private investment in affordable housing becomes more attractive. There are a variety of practices local governments can implement to reduce the parking cost impacts on housing construction. The ULI describes one approach in which local governments implement parking requirements based on the needs of the residents and surrounding land use, rather than a one-size fits all approach. The VTPI describes an approach for dense urban areas, where local governments can implement shared-parking facilities or allow garages in residential buildings to serve as commercial garages. The latter strategy enables developers to recoup their initial costs for parking construction. Another option is for local governments to enable developers to pay a fee in lieu of constructing parking. These fees can be used to fund off-site municipal parking facilities or support transportation initiatives, such as improving mass transit or building bike lanes.

Some local governments in the U.S. have adopted minimum off-street parking policies to encourage more developers to invest in or support affordable housing near major transit zones or transit oriented development districts.

- Denver reduces the minimum parking requirements to 0.25 parking spaces per unit for senior housing and housing affordable for residents at or below 40 percent of AMI.
- Seattle significantly reduces parking barriers by eliminating minimum parking requirements for residential uses within urban centers, transit oriented development districts or within 1,320 feet of a street

with frequent transit service. Parking requirements for affordable housing for residents at or below 30 percent of AMI are reduced to 0.33 parking spaces for dwelling units with two or less bedrooms and one space for units with three or more bedrooms.

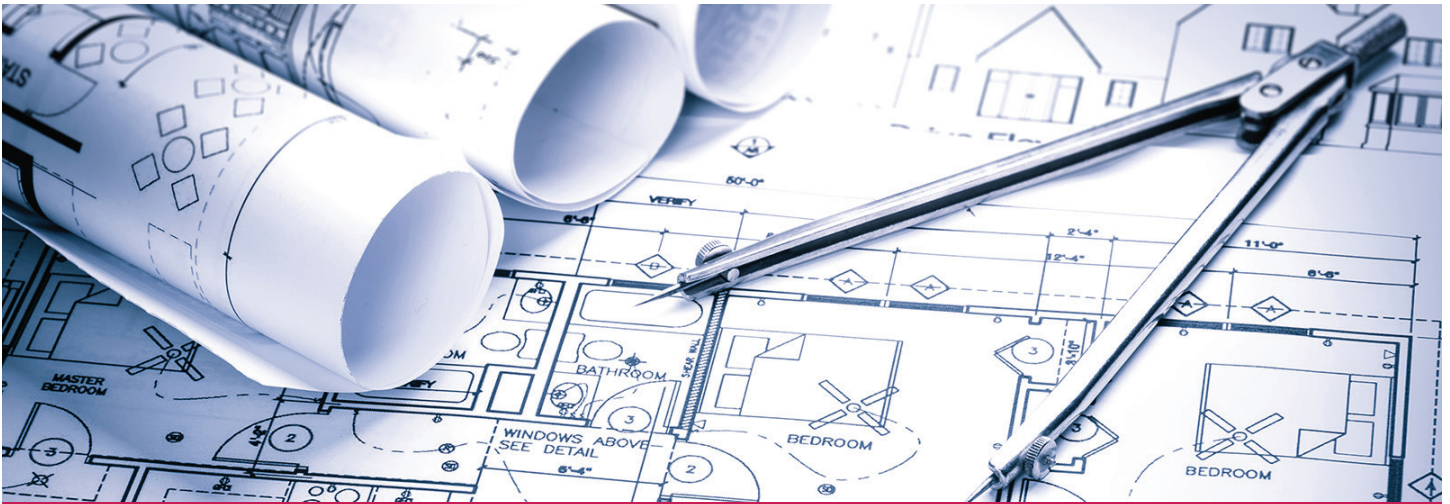
- California reduces minimum parking spaces for affordable and mixed housing to 0.5 spaces per unit, as well as 0.3 spaces per unit for special needs housing. To qualify for the reduction, a development must be within one-half mile from a major transit stop, and transit or paratransit services must be accessible to seniors and individuals with special needs.

WORKGROUP FINDING

The Workgroup finds that a variety of land use tools can be employed by local governments to support the development of affordable housing. In particular, density bonus programs are excellent tools to incentivize the production of affordable housing in a community and work best when used solely for this purpose. The Workgroup believes the most potent approach to density bonuses requires a developer to include affordable units on site in areas with excellent proximity to public transit, employment and other amenities to foster economic mobility. Additionally, micro-units and accessory dwelling units are important tools to create more affordable rental units in urbanized areas for small, cost burdened households. Finally, reducing parking requirements associated with residential development, especially in urbanized areas close to transit centers, is an important way to reduce the cost of development.

Recommendations:

- The Workgroup recommends that local governments, particularly those in urbanized areas, strongly consider incorporating density bonus programs, reduced parking minimums, and reductions of land use barriers to the development of micro-units and accessory dwelling units into their land use tool boxes to support the development of affordable housing.
- The Department of Economic Opportunity should continue to provide technical assistance to local communities assistance to implement strategies desiring to facilitate increased development of affordable rental housing.



Building Codes for Affordable Housing Development

The 2000 Legislature authorized implementation of a unified statewide Florida Building Code. Now in its fifth edition, the purpose of the code is to “establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.” The Florida Building Code is harmonized with the Florida Fire Prevention Code, which is developed by the Department of Financial Services, Office of the State Fire Marshall, to establish unified and consistent standards.

As a minimum technical performance standard for all construction in the state, the Florida Building Code applies to affordable housing developments. There are no Code exemptions, special considerations or compliance carve-outs provided for affordable housing.

Adopted and updated with new editions triennially by the Florida Building Commission, the Code may also be amended annually to incorporate interpretations, clarifications and to update standards. Minimum requirements for permitting, plans review and inspections

are established by the Code but local jurisdictions may adopt additional administrative requirements that are more stringent. Issues before the Commission are vetted through a workgroup process where consensus recommendations are developed and submitted by representative stakeholder groups in an open process with several opportunities for public input.

While the health, safety and welfare of the public are paramount concerns embedded within the Florida Building Code, the Code also serves to protect property investments and save insurers, the state and local governments money in mitigation costs linked to natural disasters. It is also important to note that the intent of the Code as outlined in s. 553.72, F.S., provides for flexibility in meeting performance requirements, explicitly mandating that the Code “is affordable, does not inhibit competition, and promotes innovation and new technology.” In practice, this flexibility allows the use of alternative technologies across a range of price points, thus fostering novel, cost-conscious and cost-effective ways to meet code requirements.

The Code’s commitment to affordability is also delineated in the specifications governing the adoption of local government technical amendments. Section 553.79 (4)(b), F.S., requires any such amendments provide a fiscal impact statement. The fiscal impact statement must include “the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.”

Building Codes for Affordable Housing Development

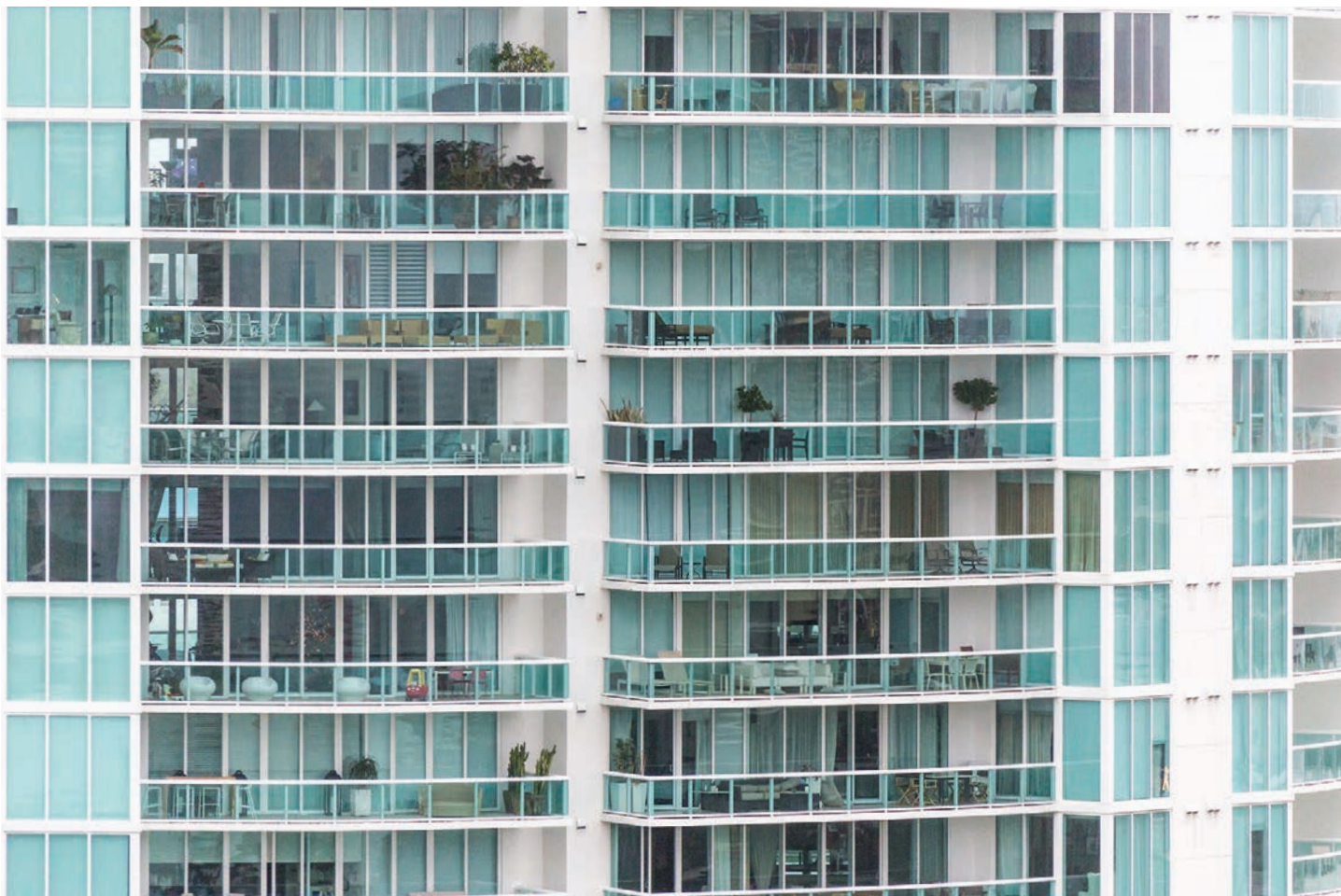
Although the Code is uniform in nature, there are a limited number of outright exemptions for certain buildings and structures such as facilities associated with railroads, temporary movie or television sets, nonresidential farm buildings and certain family mausoleums. Section 553.73(10)(k), F.S., provides that the Building Commission “may recommend to the Legislature additional categories of buildings, structures or facilities which should be exempted from the Florida Building Code.”

Workgroup reviews of reports and studies found no examples from other states of ‘reduced standards’ building codes specifically designed for affordable housing to reduce costs. The majority of cost of housing reduction ideas proffered in the reviewed commentaries center around minimizing zoning and other development requirements and impact fees. This appears to echo findings in Glaser and Gyourko’s *Rethinking Federal Housing Policy* (AEI Press, 2008) which indicate that building code regulations impact mainly in the 1-5 percent cost range, perhaps up to 10 percent.

WORKGROUP FINDING

The Florida Building Code establishes minimum technical performance requirements to safeguard the public health, safety and general welfare within the state’s built environment. It includes review mechanisms for updating standards, provides flexibility to address issues of construction affordability, and promotes innovation and new technology. All of these features are critical to the successful development of affordable housing. As the 2017 hurricane season vividly displayed, structural strength and safety to property and life are essential to Florida’s residents.

Recommendation: While the idea of a unique affordable housing-specific building code was explored, the Workgroup recommends that affordable housing developments continue to comply with all standards and performance criteria of the Florida Building Code going forward.





Implementation of the State Housing Initiatives Partnership Program

The State Housing Initiatives Partnership (SHIP) program provides funding to all 67 counties and entitlement cities to carry out locally determined housing activities. Every three years, SHIP-eligible local governments adopt plans to address locally defined needs. The SHIP statute provides flexibility to allow communities to establish strategies that will work best for them, but within a broad framework of requirements to ensure that the funding is spent for what it was intended for. Several statutory goals guide all local programs:

- At least 65 percent of the local SHIP allocation must be used for homeownership activities;
- At least 75 percent of the local allocation must be used for construction activities (overlapping with the goal above); and
- Up to 10 percent may be used for local costs to run the program.

The SHIP statute also specifies income levels to be served and requires 20 percent of each locale's funding to be used to serve persons with special needs.

Over time, 85-90 percent of SHIP funds have been used for homeownership, primarily down payment assistance and owner-occupied rehabilitation. SHIP has been thought of as the state's homeownership program, while the SAIL program administered by Florida Housing has been considered the state's rental program.

Using the SHIP Program to Finance Rental Housing

As a result of the recent economic recession, the homeownership rate in Florida and the nation decreased. During the foreclosure crisis, many homeowners who lost their homes turned to rental housing, and as the economy recovered and younger Floridians began to leave their parents' or friends' homes to look for housing on their own, they have been more interested in renting. With the increased need for affordable rental housing, the Workgroup looked to the SHIP Program to provide financing for this purpose.

As long as a local government meets the 65 percent homeownership requirement, it may choose to use the rest of the SHIP funding for other purposes. Assuming 10 percent for administrative costs, this leaves 25 percent for rental strategies. These broad goals do not apply to SHIP program income dollars that come back to the local government.¹ This means that local programs that receive program income in the form of loan repayments may use it for whatever allowable housing purpose is deemed needed, without the statutory restriction of the homeownership or construction goals.

The Workgroup reviewed more recent uses of SHIP to see how local governments have been using the program. During the 3-year period from 2013 through 2015, only 32 local governments out of 119 – about one-quarter of participating communities – used SHIP for rental development strategies. Overall, these 32

Implementation of the State Housing Initiatives Partnership Program

locales used just over 17 percent of their SHIP funds for rental purposes. Most local governments did not use any SHIP funds for rental housing.ⁱⁱ However, a few local governments told the Workgroup that they are constrained from using as much SHIP for rental strategies as they would like.

The group deliberated a proposal to remove the homeownership percentage minimum from the statute or to lower the minimum from 65 percent to something like 50 percent. Members also evaluated an idea to allow the minimum percentage to be calculated over three years of funding to allow a local government to use all or most of one year's funding for rental and still meet the 65 percent requirement over three years.

This idea was discarded due to concerns about reporting and compliance. The program has enjoyed support for 25 years, and the Workgroup did not want to recommend an approach that could jeopardize this support. In the end, the group determined that all available program dollars that could be used for rental are not yet being used by most local governments for this purpose, and as such, no change is warranted. The Workgroup did agree that local governments should be educated about ways to maximize funding for rental uses.

A Barrier to Using SHIP Funds for Rental Housing

Local governments are required to monitor rental housing funded with SHIP to ensure that over the affordability period the residents living at these properties are eligible under the terms specified in the local plan. While an important strategy, this is a barrier for medium and smaller local governments that have limited staff and infrastructure to carry out these annual activities. This discourages the use of SHIP funds for small rental projects that don't also include Florida Housing funding through its Request for Applications (RFA) process. Developments also receiving funding through an RFA have a monitoring requirement that is managed by Florida Housing.

Florida Housing is familiar with this problem and worked with the Legislature to tweak the SHIP statute some time ago to narrow the compliance monitoring requirements. The current statute requires annual monitoring of rental properties financed with SHIP funding. The statute allows local SHIP staff to rely on Florida Housing (or other

entity) to carry out monitoring when these entities also have monitoring involvement in such a property. Finally, if \$10,000 or less in SHIP funds has been provided to the property, no monitoring is required.

WORKGROUP FINDING

The Workgroup finds that there is an increased need for affordable rental housing throughout the state. Data show that the current flexibility allowing SHIP to be used for rental strategies is being underutilized by most local governments.

Recommendations:

- With the decrease in the homeownership rate in Florida, local governments should evaluate the need for affordable rental housing in their communities and consider using SHIP funds to assist in developing new affordable rental housing.
- The Catalyst Training and Technical Assistance Program should continue to provide regular training opportunities to local SHIP administrators about options for using SHIP to develop rental strategies. The training should educate local governments about how they can maximize their rental strategies with new allocations, as well as program income, which is not restricted by the 65 percent homeownership requirement.
- The Legislature should exempt SHIP funding used to finance small rental developments for persons with special needs and homeless persons from the 65 percent homeownership requirement, but no less than 60 percent of a local allocation must be used for homeownership.
- Florida Housing Finance Corporation should develop a simple monitoring report template for local governments to use for any rental properties that are not covered by compliance reporting under other corporation administered programs. Florida Housing Finance Corporation should also examine the approach of allowing "self-certifications" provided by smaller properties, as the corporation already allows for smaller, special needs properties in its portfolio.

SHIP Innovation Concept

SHIP funds are allocated to all eligible local governments based solely on a statutory population formula. The Workgroup considered the idea of building

Implementation of the State Housing Initiatives Partnership Program

an “innovation component” into the SHIP program to reward communities that expend funds in a creative manner to provide affordable housing. The idea would be to separate the appropriation into a base component to be provided under the current population formula and a smaller portion to be granted through a competitive process run by Florida Housing.

Many on the Workgroup agreed that such a concept might incentivize local governments to innovate more quickly and perhaps with greater efficiency. However, most Workgroup members were more concerned about negative impacts, including elimination of the current

program culture in which cooperative relationships exist among many communities. The Workgroup also discussed how to determine what is “innovative” – is a strategy only innovative if it hasn’t been done before? Are “tiny houses” still innovative? Shipping containers for housing? How does one differentiate and score between ideas to discern that one idea is more innovative?

Ultimately, and in part because SHIP is not currently being fully funded each year by the Legislature, the Workgroup was unwilling to recommend an innovation concept.





State Implementation of Rental Housing Programs

Part of the Workgroup's charge was to look at the state's implementation of the Low Income Housing Tax Credit (Housing Credit) program, which is administered by Florida Housing. This program is intertwined with other federal and state rental housing programs, so the Workgroup agreed to focus more broadly on Florida Housing's implementation of the key rental housing programs that make up the core of the corporation's rental financing. Public/private partnerships are critical to implementation of these programs.

Today there are almost 200,000 units in Florida Housing's portfolio consisting of properties with loans or other financing that have affordability restrictions placed on them for a period of years in exchange for the financing provided by the Corporation.

Private Investment Is the Key to Program Success

The original federal approach to building rental housing was simply to provide funding directly to public housing authorities or nonprofit organizations to build properties. Today's programs attempt to leverage the market and investors so they are part of the infrastructure of these developments.

The four key programs administered by Florida Housing are Housing Credits, Multifamily Mortgage Revenue Bonds (Bonds), State Apartment Incentive Loans (SAIL) and federal HOME funds.¹ Funds from these programs are combined or used separately to finance a variety of housing development options. Each program provides financing in such a way that developers can lower the debt on their properties and therefore lower rents to make them affordable to lower income residents.

The success of the two programs that provide the largest amount of financing on the rental side – Housing Credits and Bonds – is driven by the availability of SAIL funding to leverage federal funds, as well as the ability of developers to go to the investment market and raise capital. These programs, in combination with the SAIL and HOME programs, are designed by Florida Housing to be flexible over time to re-align the private sector profit motive with the ongoing delivery of high quality housing. These programs must be flexible enough to respond to changing market forces, policy considerations and investor concerns.

The Workgroup's Focus

Part of the Workgroup's legislative charge was to review the private and public sector development and construction industries. The Workgroup sought perspective from a variety of developers, including for profits, nonprofits and public housing authorities, to understand the development and financing issues they face building affordable housing in Florida. Based on these presentations and comments from the public, the Workgroup focused on the following issues:



- How well the allocation process used by Florida Housing to award financing works;
- Preservation of existing affordable housing that is aging and in need of rehabilitation; and
- Supporting housing for extremely low income residents, particularly those with special needs or homeless people.

The Workgroup also briefly touched on the concept of using state housing funds for tenant vouchers instead of production of units. Ultimately, the group discarded this idea. A synopsis of its findings is provided at the end of this section.

FLORIDA HOUSING'S PROCESS TO ALLOCATE RENTAL FINANCING

Rental financing is allocated through a competitive Request for Applications (RFA) process, with about 15 RFAs issued each year to respond to different housing needs and policy priorities.

Once applications are received by Florida Housing, they are scored and ranked, and the final recommendation is sent to Florida Housing's Board of Directors for approval. There are three types of scoring criteria in RFAs:

- Mandatory eligibility requirements, which must be met to be eligible for funding;
- Point scoring for certain items; and
- Narrative scoring of descriptions submitted by the applicant.

All RFAs include a lottery in case scoring is tied. While several tie-breaker scores are included in most RFAs, about one-third of all applications are awarded financing via lottery.

Florida Housing provided the Workgroup with information outlining how it balances the predictability of and access to funding within the Administrative Procedure Act (APA – Chapter 120, F.S.). The purpose of the APA is to allow broad citizen involvement in agency decision making, as well as unbiased resolution of disputes with an administrative entity.

For many years, Florida Housing's competitive rental programs were implemented through applications and instructions that were incorporated into administrative rules. Both the rulemaking process and challenges to Florida Housing funding selection decisions under these rules proved time consuming. This meant that funding typically was offered only once a year to have enough time to move through the entire process.

To streamline the process, Florida Housing changed its approach to rely on a competitive bid process. The old approach provided all or most rental program funding through one "universal" application cycle – a comprehensive, once a year funding opportunity that incorporated all programs and mainly provided funding for general occupancy properties of similar types. The current approach allows Florida Housing to issue multiple competitive RFAs over a year. It provides the corporation with the right to waive minor irregularities during scoring and relies on more streamlined administrative appeal procedures to be used if applicants wish to protest the terms of RFAs issued or the scoring results (per s. 120.57(3), F.S.).

There are many advantages to the new approach. Challenges are quicker to resolve. A wider range of housing types are now funded through the multiple, specialized RFAs issued each year. Finally, Florida Housing can more quickly target funding to meet emerging financial market or housing needs, such as hurricane recovery.

The Workgroup targeted two areas of the process for further consideration: the lottery and the litigation process.

Using a Lottery to Select Applications for Funding

Since 2013, across 62 RFAs, 108 out of 330 awards made were made based on lottery – about one-third of all awards made. Ideally, every winning application would be selected based a combination of RFA goals, eligibility criteria (e.g., applying by the deadline) and scored points. There are two types of scored items:

- Objective, "yes/no" items, such as whether an application shows that the proposed development has the correct zoning to move forward quickly once funded; and

State Implementation of Rental Housing Programs

- Narratives – More complex descriptions provided by an applicant about a proposed property in response to RFA requirements. The narrative approach requires more training and knowledge by a Florida Housing scorer with experience in areas such as supportive services, community development and urban planning, and local housing strategies. This scoring approach is time consuming, and narratives are more difficult to score than most objective scoring items. Narratives must be compared between competing applicants, and the scorer must have knowledge of accepted or best practices for the issue being scored (e.g., management experience serving homeless residents or participation in the community’s homeless coordinated entry program).

Each RFA’s selection process scoring chooses winning applications based on the goals and scoring set for that particular RFA, as well as a tiebreaker system. If, after scoring and tiebreakers are applied, scores are tied, the lottery is employed. In the larger RFAs, typically those to finance general occupancy properties, lottery is more often used to select awards than smaller, more specialized RFAs with fewer applicants, where scoring typically separates the winners from the losers.

Because Florida Housing’s funding decisions are open to challenge before a hearing officer or judge, the corporation has always tried to minimize scoring on items that are more subjective and thus open to disagreement. Even scoring criteria that are considered objective – typically “yes/no” questions or requirements – are legally challenged, but they are easier to defend and understand by applicants.

The Workgroup liked the idea of using narrative scoring to differentiate applications, but realized that in large RFAs it would be difficult to use narratives to differentiate among the high number of applications received. Maintaining a consistent scoring approach for a narrative across 150 applications would be difficult, and scoring would be extremely time-consuming work, slowing the time between application and award.

Some states rely more on narrative scoring, but these states do not provide legal entry for applicants denied funding to sue their housing finance agencies – they don’t have an APA like Florida’s. This allows these

agencies to incorporate more nuanced scoring criteria into their funding processes, knowing that they will not be sued. In Florida, legal challenges over narrative scoring decisions for RFAs with a high number of applications could be problematic. If narrative scoring was incorporated into the general occupancy RFAs in which larger, for profit developers mainly participate, Florida Housing’s award process could be ground to a halt with multiple lawsuits arguing every fine point in the narratives of each application getting a preliminary award of financing.

Florida Housing only uses narrative scoring in those RFAs in which differentiation of issues beyond the development process is critical – mainly for permanent supportive housing where experience and approach is critical to providing homeless households and persons with special needs with the supports they need.

Florida Housing’s approach to objective, “yes/no” scoring, which still gets legally challenged, is to require applications to provide information on essential items to ensure that a quality development is selected for funding. In every RFA, there are applicants that do not meet these requirements and are therefore not eligible to be selected for funding. Even within RFAs where lottery is employed, it is typically only employed for a portion of the awarded developments (usually after the RFA goals have been met).

WORKGROUP FINDING

While only one-third of applications awarded financing by Florida Housing are chosen through a lottery, the Workgroup finds that, ideally, no awards should be made through a lottery.

Recommendation: Florida Housing Finance Corporation should continue efforts to reduce the allocation of awards based upon the lottery.

Expediting the Litigation Process

Compared to the old rule-based litigation process, the statutory timeline for legal challenges on RFA scoring is relatively short under Florida Housing’s current bid process, with many cases dismissed before hearing. A defined timeline is provided in statute under the APA; however, in most cases the timing depends on the cooperation of the parties involved. Issues involving third

parties, such as local government officials, often take longer due to their complexity.

The timeline for litigation under the current bid process as provided in s. 120.57, F.S., is summarized in the following table.

Out of eight 2017 RFAs for which litigation is now complete, 18 petitions were filed, with nine dismissals, one petition granted by Florida Housing, and eight petitions (44 percent) ultimately sent to the Division of Administrative Hearings (DOAH). Overall, the median length of time to complete cases was five weeks. Of the DOAH cases, the median time to complete cases was 13 weeks.

Bid Protest Timeline as Implemented by Florida Housing (FHFC) for Rental Applications

Within 72 hours after preliminary awards posted	Applicants may file notices of protest
Within 10 days of notice submission	Applicants may file petitions
Within 7 days of petition submission	<p>Meet/discuss settlement options</p> <ul style="list-style-type: none"> • Often does not occur this quickly b/c petitioner requests more time • Realistically, w/in 14 days • This is the first point when FHFC listens to petitioner's case and may voluntarily change its position • This is the point when some petitioners agree they don't have a case and withdraw
After settlement meeting completed	<p>FHFC forwards case to Division of Administrative Hearings (DOAH)</p> <ul style="list-style-type: none"> • Often petitioners ask FHFC to delay sending case forward to give them more time
Within 30 days of FHFC forwarding case	<p>DOAH hears case</p> <ul style="list-style-type: none"> • Often petitioners request continuances • Realistically, 4-6 weeks to hear cases • After hearing completed, transcripts are published; this takes up to 2 weeks
Within ~10 days of transcript publication after hearing is completed	Preliminary Recommended Orders (PROs) filed by all sides
Within 30 days of PROs being due	<p>Judge issues Recommended Order to FHFC</p> <ul style="list-style-type: none"> • Realistically, takes 30-45 days
Within ~5 days (as set by FHFC)	Parties may file exceptions to the Recommended Order
Next FHFC Board meeting	<p>Board takes up Recommended Order, any exceptions and responses, and staff recommendation, and issues Final Order</p> <ul style="list-style-type: none"> • Board meetings occur every ~6 weeks

Note: Parties may appeal to the District Court of Appeals, but such appeals do not delay the funding process for the rest of the awardees.

State Implementation of Rental Housing Programs

To shorten the time between application awards and housing being available to residents, the Workgroup discussed ways to limit or expedite litigation. The group briefly considered whether it would be prudent to exempt Florida Housing's process from all or part of the APA, but discarded this idea. The group decided that, on balance, allowing applicants to challenge scores and the process is indispensable to maintaining the integrity of an open and fair system. The litigation process is a powerful tool in policing scoring. For example, it is not unusual for Florida Housing to change positions on its scoring once it has obtained more information through the discovery process in litigation. Mistakes are found and corrected, weaknesses in the system are exposed and remedied. Every Final Order Florida Housing adopts settles some issue or issues for the future and helps evolve the system in a way that is fair and transparent.

Even if the Legislature were to consider limiting the application of the APA for this type of litigation, applicants not receiving funding could continue to litigate through the Circuit Court. This would be more expensive, likely inconsistent in its findings, and would take longer than the current process.



WORKGROUP FINDING

The Workgroup finds that Florida Housing Finance Corporation's rental allocation process takes longer than it ideally should mainly due to legal challenges to scoring results. Challenges are allowed under s. 120.57, F.S., and while they are more expedited than Florida Housing Finance Corporation's older rule-based litigation process, the additional time taken to resolve these cases means more time before developments are constructed and available for occupancy.

Recommendations:

- Florida Housing Finance Corporation should evaluate whether legal challenges in which all parties agree after litigation has occurred can be sent to the Executive Director rather than the Board for issuance of a Final Order.
- Florida Housing Finance Corporation should assess its application process with the goal to remove or simplify scoring items that are most likely to be litigious, but should maintain scoring items that allow the corporation to differentiate and choose the best developments for funding. With these changes, Florida Housing Finance Corporation must adopt an approach that discourages developers from not having completed "ability to proceed" items by the start of the credit underwriting process. Before implementation, the corporation should workshop these proposals with stakeholders participating in Florida Housing Finance Corporation programs.

PRESERVATION OF EXISTING AFFORDABLE RENTAL PROPERTIES

Florida has over 275,000 public and assisted multifamily units financed by myriad state and federal programs. These programs include both construction financing and federal project-based rental assistance affiliated with some older federal properties to serve mainly extremely low income residents. Two preservation circumstances which often overlap are:

- Properties that are still affordable, but are aging and are at risk of physical deterioration and even financial default unless they receive additional capital investment; and
- Properties that are reaching the end of their affordability restrictions, allowing program restrictions

on income and rent to expire, and giving property owners the freedom to set rents at whatever the market will bear.

Florida's Aging Affordable Rental Stock

The table below shows properties and units built before 1986 (30+ years old) and those built from 1986 to 2000 (15-29 years old). Information on the age of public housing units is provided in the separate table below. The big table excludes 116 developments that have received recent funding for preservation or rehabilitation.

The 30+ year old category is heavily weighted toward developments with HUD and USDA Rural Development

(RD) rental assistance. These properties are more likely to serve extremely low income and elderly tenants than the newer inventory. In contrast, Florida Housing-funded units make up the bulk of the housing in the 15-29-year-old category, reflecting the growth of the Housing Credit and SAIL programs in the 1990s. Most of these units do not have HUD or RD rental assistance, and average tenant income is considerably higher than for the 30+ year old group (\$22,866 vs. \$12,759).

Public Housing is affordable in perpetuity (or as long as it lasts); its problem is purely one of age, deterioration and functional obsolescence. The most recent age information is provided below.

Risk of Deterioration and Loss Due to Age

		30+ Years Old	15-29 Years Old	<15 Years Old
Property and Unit Counts	Properties	493	867	903
	Units	39,798	95,300	96,493
	HUD/RD Rental Assistance Units	32,467	17,445	13,778
	% of All Assisted Units	17%	41%	42%
Funder	HUD	77%	22%	18%
	RD	22%	9%	2%
	Florida Housing	6%	83%	95%
	LHFA	3%	19%	26%
Target Population	Family	45%	79%	74%
	Elderly	49%	17%	22%
	Other	6%	4%	4%
	Average Tenant Income	\$12,759	\$22,866	\$22,381
Location	Large County	59%	59%	61%
	Medium County	34%	36%	35%
	Small County	7%	4%	4%
	Counties Most Affected	All Large Counties	Large Counties (except Pinellas) + Osceola, Seminole	-

Source: Shimberg Center for Housing Studies, University of Florida, Assisted Housing Inventory

Age of the Public Housing Stock in Floridaⁱⁱ

	Total Units	% of Units
1937-1985 (30+ years)	25,504	83%
1986-2000 (15-29 years)	1,182	4%
After 2000 (<15 years)	3,924	13%
Total	30,610	100%

Source: U.S. HUD, compiled by the Shimberg Center for Housing Studies, University of Florida



State Implementation of Rental Housing Programs

Expiration of Affordability Restrictions

There are three types of subsidy expirations that will be the most common in the next two decades.

Housing Credit Properties. Federal law originally required Housing Credit program properties to remain affordable for only 15 years. Beginning in 1990, this increased to 30 years, and in the mid-1990s, Florida began incentivizing properties financed with Housing Credits and other programs to choose a 50-year period. Many of the early developments will begin reaching the 30-year restriction expiration starting in 2020, and expirations will accelerate through the 2020s.

Rural Development Properties. RD provided 40-50 year mortgages for affordable rental developments in rural areas. RD also provides rental assistance for most of these units, enabling tenants to pay 30 percent of income for rent. Florida has 423 developments with 16,704 units

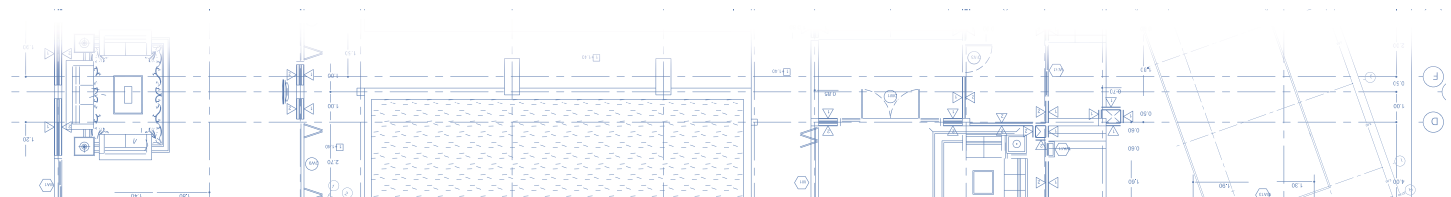
funded by RD programs. RD-funded developments in Florida are beginning to mature and will continue to do so throughout the 2020s. Unlike with HUD-subsidized properties, there is no option to renew rental assistance contracts beyond the term of the mortgage.

HUD Project-Based Rental Assistance. HUD's project-based rental assistance enables tenants to pay 30 percent of their income for rent. Statewide, 687 developments receive subsidies from HUD rental assistance programs. In 2016, these developments provided 50,854 units of deeply subsidized housing. Unlike with expiring Housing Credit and RD restrictions, the HUD affordability terms are renewable. Preservation of these expiring contracts is a critical priority, because the state is unable to replace the subsidies for extremely low income households that allow them to pay only 30 percent of their income for rent.

Risk of Loss Due to Expiring Restrictionsⁱⁱⁱ

		LIHTC 30-Year (through 2030)	RD Maturing Mortgages (through 2026)	HUD Expiring Rental Assistance (through 2026)
Property and Unit Counts	At-Risk Properties	93	145	157
	At-Risk Units	15,891	7,217	12,132
	HUD/RD Rental Assistance Units	320	4,543	12,132
	% of All Units in Program at Risk	10%	38%	24%
Target Population	Family	96%	66%	54%
	Elderly	4%	2%	43%
	Other	—	32% (Farmworker/ Family)	3% (Persons with Disabilities, Family/ Farmworker)
	Average Tenant Income	\$25,242	\$19,075	\$10,189
Location	Large County	66%	23%	70%
	Medium County	34%	57%	24%
	Small County	0.10%	20%	5%
	Counties with the Most Affected Units	Orange, Miami-Dade, Hillsborough, Osceola, Duval	Palm Beach, Polk, Pasco, Lake, Collier	Duval, Miami-Dade, Hillsborough, Orange

Source: Shimberg Center for Housing Studies, University of Florida, Assisted Housing Inventory



What Happens to Properties that Lose their Affordability Restrictions?

The Shimberg Center keeps track of affordable housing losses within the state. As of its 2017 update, 481 properties with 62,225 units (49,108 restricted and of those, 3,178 with federal rental assistance) had been lost.

In 2009, the Shimberg Center conducted a survey to determine the current use and affordability of developments lost as of that time. Of the developments responding to the survey, most (70 percent) were continuing to operate as rental housing, with 61 percent of those offering naturally affordable rents to households at about 60 percent of AMI. None of the properties offered rents to serve extremely low income residents. One-fifth of the developments had been converted to condominiums. The rest were vacant or demolished.

Why Finance Preservation Instead of Building New Housing?

Proponents of preservation point to rehabs as:

- Addressing deterioration in the existing stock and more cost-effective than new construction.
- Continuing to build on previous public investment in a way that supports local neighborhoods.
- Side stepping NIMBY risks associated with new construction.

Those in support of new construction as a primary approach to financing affordable housing point to:

- The need for additional housing.
- The uncertainly costs (and thus, risks) associated with a rehab project.
- New construction units provide more green building options and cost less to operate.

Strategies Already in Place to Preserve Affordable Housing

In 2007, Florida Housing began annually reserving 11 percent of its competitive Housing Credit allocation (around \$4 million) for preservation. The percentage has been at 15 percent since 2012 (~\$7.5 million today). The Housing Credit preservation priority is targeted to older developments with high levels of project-based rental assistance, including public housing. Competitive Housing Credit financing is not available to properties

already in the corporation's portfolio, even older properties.

Developers may also use SAIL, Bonds and non-competitive Housing Credits to carry out preservation. Properties in the corporation portfolio may be recapitalized via Bonds and non-competitive Housing Credits (but not with SAIL); however, these two programs alone only provide a moderate level of rehab. Most applicants for public housing properties seek to demolish and rebuild, because federal funding for ongoing operations under the public housing program does not support operation on these properties over time.

Florida Housing's preservation strategy focuses on aging properties and does not include a priority for properties at the end of their affordability periods or at risk of leaving the assisted inventory. In 2016, of the 9,557 rental units financed with all Florida Housing programs, almost 5,000 units were new construction or redevelopment, and the rest were rehabilitation of some sort, including preservation.^{iv}

Affordability Periods

In exchange for rental financing through corporation programs, developers agree to keep their properties affordable for a certain period. Since the mid-1990s, Florida Housing has placed a value on long affordability periods, initially incentivizing and then requiring most developments financed with competitive Housing Credits and SAIL funds to be affordable for 50 years. Since 1989, federal law has required minimum affordability periods of 30 years for Housing Credit developments. Thirty-one states require or incentivize affordability periods longer than 30 years.

To some, the value of the longer period is to keep the land itself under affordability restrictions – that is, even if the buildings become functionally obsolete and are replaced, the land is still available for affordable housing. Many properties applying for preservation funding originally were funded by HUD ~35-45 years ago. Today, these properties are in prime real estate locations that are convenient to services and amenities. Recently, discussion of this issue has focused on the need for recapitalization of older properties that are still under their 50-year restriction, particularly those in Florida Housing's portfolio.

WORKGROUP FINDING

The Workgroup finds that the existing affordable rental housing stock is aging, particularly housing geared to serve extremely low income Floridians with federal project-based rental subsidies. Because of restricted rents at many properties, including those in Florida Housing Finance Corporation's portfolio, many properties do not have the resources needed to recapitalize and rehabilitate properties to adequately serve residents over their long affordability periods.

Recommendation: Florida Housing Finance Corporation should continue to develop a more robust rental preservation strategy that includes, but is not limited to, recapitalization opportunities of properties in Florida Housing Finance Corporation's portfolio.

Additional Workgroup Finding and Recommendation

In its annual "large county" RFA for Housing Credits, Florida Housing implements a preference for local government priorities. Local governments interested in prioritizing a particular development due to local objectives, such as revitalization or transit-based development, may provide a higher level of funding to that development following RFA requirements, which then indicates to Florida Housing that the development is a priority for the locale. While other development applications in that same area may be submitted for funding, if the prioritized application is deemed eligible for funding and receives as many points as any other application, it will be chosen for funding. Only one development per county may be chosen via this local preference. Currently this preference is only provided in this one RFA each year.

WORKGROUP FINDING

The Workgroup finds that many local governments are looking for ways to leverage their local dollars with other financing to assist them in meeting local affordable rental housing objectives.

Recommendation: Florida Housing Finance Corporation should continue implementation of the Local Government Area of Opportunity Preference in Low Income Housing Tax Credit Requests for Applications for large counties, and explore the expansion of its use in medium and small counties.

TARGETING FINANCING FOR EXTREMELY LOW INCOME HOUSEHOLDS, AND PERSONS WITH SPECIAL NEEDS OR WHO ARE HOMELESS

Florida Housing finances housing for general occupancy family developments, elders, homeless persons, farm/fishing workers, and persons with special needs.^v

Family and elderly properties are the standard, general occupancy properties most often financed by Florida Housing, and the primary interest of for profit developers applying for financing. The other demographic groups are harder to serve. These households often have extremely low incomes. This makes typical development financing structures unworkable, because the low rents needed to make the units affordable do not bring in enough property income to manage debt payments without additional financing. The most successful properties serving mainly extremely low income tenants develop partnerships with organizations that provide access to community based services, such as daycare, transportation services, healthcare and educational/job training. Nonprofit, mission-based developers are more likely to be interested in developing these partnerships and fundraising to help residents live independently in this housing and in their communities.

While serving residents with incomes at 50-60 percent of AMI is the financial "sweet spot" for the key rental programs administered by Florida Housing, extremely low income households with incomes at or below 30 percent of AMI are typically the most cost burdened and the most in need of affordable rentals. There are federal programs that address this lowest income population, but these programs do not provide funding for new units. It is not financially viable to use Florida Housing programs to build properties that serve only extremely low income residents without other funding sources.

Florida Housing recognizes the importance of creating diverse and varied types of housing for residents who are homeless or have special needs. Specialized, permanent supportive housing properties run by nonprofits or joint ventures between for profit and nonprofit developers are one option.^{vi} To give residents the option of living in a more integrated community setting, Florida Housing has implemented the "Link



Strategy.” This strategy incentivizes developers to set aside five percent of units at a family or elderly property for households with special needs. Potential residents are referred by a supportive services agency that has signed up with the corporation to provide these referrals and ongoing supports to these residents as needed. These units must be affordable to extremely low income residents.

Of the almost 200,000 units currently in Florida Housing’s portfolio, more than 14,000 are set aside for extremely low income residents, and more than 6,700 units are provided for residents who are homeless or have special needs. More than 2,600 of these units are in general occupancy properties. There is some overlap between these and the extremely low income units.

WORKGROUP FINDING

Extremely low income units are the most expensive to finance because of the limited rents these units provide to offset debt/operations on a property. Florida has the greatest need for these units, yet there are relatively few of them in Florida Housing Finance Corporation Finance Corporation’s portfolio because they are so expensive to finance.

Recommendation: Florida Housing Finance Corporation should evaluate strategies other states use to provide Low Income Housing Tax Credit financing for extremely low income units, and implement promising strategies that are financially feasible.

WORKGROUP FINDING

The Workgroup finds that, while a simple evaluation of the need for rental housing for cost-burdened and other persons with special needs and homeless people is carried out every three years pursuant to the SAIL statute, Florida has a very limited understanding of the variety of housing needs across these sub-populations.

Recommendation: Florida Housing Finance Corporation should find the resources to conduct a state level needs assessment to identify the statewide affordable and supportive housing needs by special needs and homeless populations and perform financial modeling to address the housing needs of each sub-population.

Serving Households with Special Needs through the Link Strategy

Initiated in 2009, the Link Strategy enhances the ability of extremely low income persons with special needs and homeless households to access housing financed by Florida Housing. The strategy helps these residents lead stable lives in their communities by linking affordable rental housing with access to community based healthcare and supportive services. In 2014, the Legislature began to support the Link concept by directing Florida Housing to set aside a portion of units in developments for persons with special needs.^{vii}

As a condition of using Florida Housing resources, the corporation requires developers to set aside a percentage (usually five percent) of a development’s units as Link units. Prospective tenants for these units must be referred by a Florida Housing-designated supportive services agency that serves the community where the property is located. At the time of referral, these households are receiving community based supportive services that may include behavioral healthcare, case management or help to improve their employment opportunities. The property owner must execute a memorandum of understanding (MOU) with at least one designated referral agency serving the county and rent units to qualified households referred by that referral agency.

Initially, Florida Housing required properties to hold open units targeted to Link households for only 14 days before being released to a general occupancy

State Implementation of Rental Housing Programs

household. The 14-day hold proved to be problematic for many reasons. First, it was not adequate time for the referral agencies to prepare their consumers for application and leasing of these apartments, chiefly due to barriers to entry for households with income, eviction, credit or criminal histories. Second, property owners often would also lease or pre-lease the units before the MOU was signed without leasing these through the Link strategy, and there would be no turnover for a long period of time. Getting special needs households access to these rental units was very difficult, even for referral agencies that had pre-screened their clients.

During 2015-2016, Florida Housing formed an internal team to revise RFA Link requirements, create an MOU template and develop a compliance monitoring procedure to formalize the Link Strategy. The corporation subsequently adopted several policy changes to increase the likelihood that referral agencies would have success in housing their consumers in Link units.

- The period a property owner is required to hold open an available Link set-aside unit for a referred special needs household was increased from 14 to 30 days;
- In pre-leasing of units at a property under construction (or during lease-up), Link units must be held open until filled by a Link referral agency; and
- When a development has received funding for rehabilitation, but is fully occupied, each available unit that becomes vacant must remain open until filled by a tenant referred through the Link strategy until all set-aside commitments are met.

Data gathered in the fall of 2017 showed that only one-third of the Link units have Link referrals living in them.



WORKGROUP FINDING

Based on the late-2017 Link report provided by the corporation, the Workgroup finds that Florida Housing Finance Corporation is still having difficulty in meeting the intent of the Link Strategy. Holding available units open for a limited time adds another barrier for extremely low income persons with special needs to access units set aside specifically for these households. Even though Florida Housing Finance Corporation has recently extended the hold period to 30 days, the Workgroup finds that this extended period still does not meet the intent of using public resources to ensure the intended households have access to the units specifically set aside to serve them.

Recommendation: Florida Housing Finance Corporation should convene a working group to develop policies to fulfill the requirement that all developments with the commitment to set aside units for extremely low income households with special needs through the Link Strategy comply with the requirement and hold them available until a referred household leases the unit. The working group should include developers, property managers, participating Link supportive service providers and others to develop such an approach, including policies to address when exceptions to this requirement are needed.

Lowering Barriers to Entry in Affordable Rental Developments

Stringent rental qualifications and background checks are typically used by landlords to allow them to choose only those individuals who will be model tenants. This is true for both market rate and affordable rental properties. Prospective tenants are commonly evaluated based on their income, credit, rental and criminal history. Applicants are commonly screened out due to an income to rent ratio that is too low; a history of irregular income or changing income sources; poor or no credit history; poor rental history such as evictions or late payments; and any type of criminal background.

Due to their low incomes and special needs or disabilities, many homeless and lower income renters have less than ideal qualifications that prevent them from passing strict leasing qualifications set by landlords. A prospective tenant's ability to acquire housing also may be negatively impacted by property management

policies that influence how an applicant is evaluated, extended lookback periods for rental history and criminal offenses, and limited consideration of mitigating circumstances. Landlords typically use third-party screening agencies for this purpose. These agencies use an automated process to screen all applicants equally based on stringent and often inflexible selection criteria. This approach does not take into consideration each applicant's special circumstances or actions the household has taken to improve their histories or income. This can lead to lower income applicants being denied housing, particularly extremely low income tenants who have been homeless and those with special needs.

Housing providers are required by law to make "reasonable accommodations" to ensure that a person with a disability will have an equal opportunity to use a dwelling.^{viii} In these cases, prospective tenants with a disability must request a reasonable accommodation regarding their application for housing. This request requires the property management to conduct an individualized review of the applicant and consider extenuating circumstances that may be attributable to the person's disability. However, the reasonable accommodation law does not apply to prospective tenants without a disability or those who may simply have extremely low incomes.

Barriers inhibiting prospective tenants from acquiring housing can be lowered by creating tenant selection policies that "screen-in" rather than screen out applicants based on factors such as income or poor credit. To be done well, this requires a case-by-case assessment of each prospective tenant.

To reduce barriers for applicants, the 2013 HUD Occupancy Requirements of Subsidized Multifamily Housing Programs Handbook recommends that property owners follow a formal, written process for collecting information. Property owners should describe the criteria they will use for distinguishing between acceptable and unacceptable credit ratings and rental history. HUD recommends that property managers give priority to current credit activity over older activity and counsels against rejecting applicants solely on lack of rental and credit history. When reviewing an applicant with prior criminal infractions, HUD suggests that property owners evaluate the individual circumstances, such as the



seriousness of the offense, the degree of participation in the criminal activity by the applicant and the extent the applicant has taken steps to mitigate the action.

Florida Housing addresses this issue in RFAs targeted to housing for homeless persons and persons with special needs. These RFAs offer scoring points for developers that submit narrative information in their applications about their application and tenant screening processes. Applicants are scored on how their property management will facilitate a household's ability to acquire, complete and submit a rental application. Applicants must also explain how they intend to address shortcomings in a prospective tenant's income, credit, criminal and rental histories that might cause a barrier to tenancy.

While Florida Housing has implemented a scoring approach for more specialized properties, most general occupancy properties are not required by Florida Housing to implement low barrier entry procedures for prospective tenants. Many general occupancy properties are required to set aside ten percent of the units to serve extremely low income residents and Link tenants.

In some cases, the lack of low barrier entry procedures has led to supportive service referral agencies having trouble finding a prospective referral with an unblemished record to send to the property when a Link unit becomes vacant and available.

WORKGROUP FINDING

The Workgroup finds that low barrier entry procedures for prospective tenants with extremely low incomes are necessary to ensure that these citizens are given an opportunity to access decent, affordable housing throughout Florida Housing Finance Corporation's portfolio of rental properties.

Recommendation: Florida Housing Finance Corporation should adopt comprehensive low barrier entry requirements as well as requirements to lower barriers to continued occupancy for general occupancy properties, targeted to all units set aside for extremely low income tenants, including but not limited to Link units. This requirement should include development of standards for implementation and training geared to developers and property managers. The corporation should convene a workgroup of subject matter experts, including property managers, fair housing experts, developers and others, to assist in development of standardized requirements.

Supporting Nonprofits in the Development of Special Needs and Homeless Housing

Nonprofit organizations are treated the same or similarly to for profit developers in credit underwriting. Traditional credit underwriting requirements are not always germane to the nonprofit structure of the organization. Moreover, the approach assumes a development operating budget in which operating income is provided by the rents and other income streams from the residents living at the property.

While underwriting conventions are not exactly the same across different development types, there is a tendency for Florida Housing to use assumptions for a typical financing structure that for profit developers pursue. Operations at smaller, special needs and homeless properties are typically different, because of the residents' incomes, which are generally extremely low and not enough to cover operations at the property. As a result, alternative subsidies are often used to ensure long term viability of the development. Typical underwriting does not adequately consider these alternatives or may discount their viability.

WORKGROUP FINDING

Nonprofit development organizations are critical to support, because they are more likely to develop properties to serve persons with special needs who have extremely low incomes. The workgroup finds that Florida Housing Finance Corporation's credit underwriting process treats nonprofit developers the same or similarly to for-profit developers. However, transactions undertaken by 100 percent nonprofit organizations often use non-traditional financing for development and operations that do not fit well into the traditional credit underwriting framework.

Recommendation: Florida Housing Finance Corporation should create a workgroup of subject matter experts to create an alternative credit underwriting approach for developments serving persons with special needs and homeless households developed and/or operated by nonprofit organizations.



USING STATE FUNDS TO FUND TENANT VOUCHERS FOR AFFORDABLE HOUSING

Some policy makers have wondered about using some or all state rental housing funds for tenant vouchers instead of the production of rental units. In a comparison of cost and programmatic differences of each approach, the Workgroup used the federal Housing Choice voucher program compared to the SAIL program. In summary, the findings were:^{ix}

- SAIL leverages federal financing to provide more units when compared to vouchers.
 - Mostly serves tenants with higher incomes than the voucher program. In 2016, across all occupied Florida Housing units, the average resident income was ~50 percent of AMI. A small portion of units (14 percent) were available and affordable to extremely low income residents without vouchers;
 - Provides greater economic impact to communities and the state through construction;
 - While renters with incomes lower than 60 percent of AMI may be somewhat cost burdened in SAIL units, rents are still lower than market rate units and the units are in better condition than substandard units out in the market that may have lower rents.

- Vouchers deeply subsidize rents for a smaller group of renters, and are therefore more expensive over time than the SAIL production program. However, vouchers provide a safety net for extremely low income renters, acting as a critical deterrent to homelessness resulting from eviction.
- In some markets, lack of rental housing stock or landlords willing to take vouchers may make vouchers less useful. In these areas, production programs become important tools to create affordable housing. In addition, the affordable housing production programs allow voucher holders to live in the units, thus providing a safety net for these renters in better quality units.

In a separate analysis looking at the distribution Housing Credit units and federal voucher recipients in Florida, 40 percent of all voucher holders were living in census tracts with 30 percent or higher poverty rates, while 28 percent of Housing Credit units were located in these higher poverty areas. This means that Florida's implementation of the Housing Credit program has enabled more residents to live in areas with lower poverty and thus more access to economic opportunities.

The Workgroup decided not to pursue recommendations to develop a state voucher program.





Local Housing Finance Authority Tax Exemption on Mortgages

Section 159.604, F.S., gives each county in Florida the power to create by ordinance a county Housing Finance Authority (HFA) to carry out the powers granted by the Florida Housing Finance Authority Law. Just as with Florida Housing Finance Corporation, local HFAs are established to alleviate the shortage of housing and capital for investment in housing at the local level. There are 20 local HFAs operating in the state. Four of these also have interlocal agreements with other counties to make homeownership loans to residents in those counties.

Local HFAs are composed of no fewer than five members appointed by the governing body of the county. The powers of an HFA are vested in the members and include the power to loan funds to homebuyers and qualified rental housing developers.

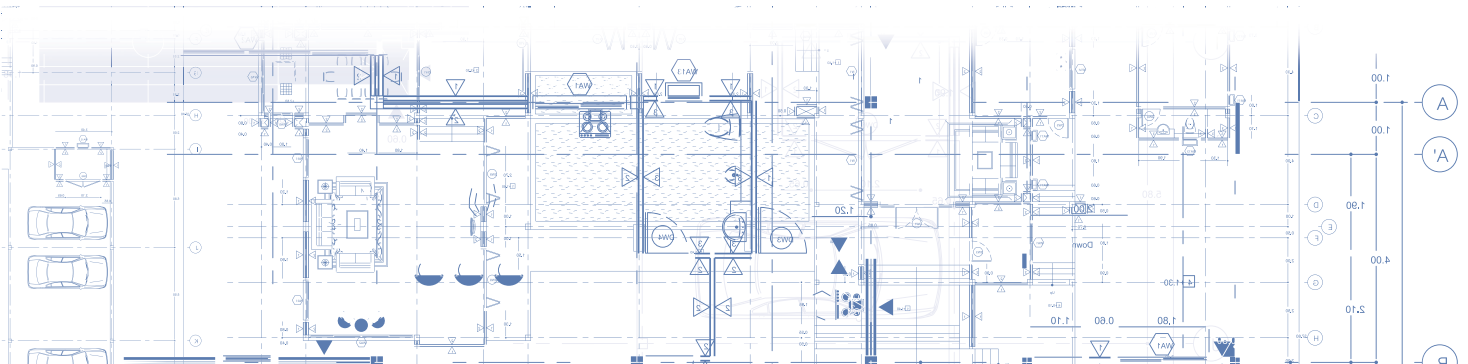
Local HFAs commonly achieve affordable housing goals by using a variety of resources to fund homeownership and rental housing. Local HFAs implement homebuyer programs that provide qualified applicants with services

such as low interest rate mortgage loans, closing cost assistance and down payment assistance, often blended with local SHIP funds.

WORKGROUP FINDING

Current law provides an exemption from documentary stamp and intangible taxes related to mortgages financed by or on behalf of local housing finance agencies (HFAs) when the mortgage is made in connection with bonds issued by a local HFA [Section 159.621 (1), F.S.]. However, most local HFAs also operate homeownership programs that do not use bond financing. Florida Housing Finance Corporation is granted the exemption for any mortgage, while local HFAs are not.

Recommendation: The Legislature should adopt legislation that would provide an exemption from documentary stamp and intangible taxes related to all mortgages financed by or on behalf of local housing finance agencies.



ENDNOTES

Land Use for Affordable Housing Development

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- ⁱⁱ Sanford Ikeda and Emily Washington, How Land-Use Regulation Undermines Affordable Housing, Mercatus Center, George Mason University, November 2015 at <https://www.mercatus.org/system/files/Ikeda-Land-Use-Regulation.pdf>.
- ⁱⁱⁱ Paul Emrath, Government Regulation in the Price of a New Home, National Association of Home Builders, May 2016, at https://www.nahbclassic.org/fileUpload_details.aspx?contentTypeID=3&contentID=250611&subContentID=670247&channelID=311; and <https://www.nahbclassic.org/generic.aspx?sectionID=734&genericContentID=250611&channelID=311>.
- ^{iv} Ibid, How Land-Use Regulation Undermines Affordable Housing.
- ^v A number of articles/studies can be found online, for example: The Center for Housing Policy, “Don’t Put it Here!” at http://furmancenter.org/files/media/Dont_Put_It_Here.pdf; Trulia’s Blog, There Doesn’t Go the Neighborhood: Low-Income Housing Has No Impact on Nearby Home Values, 16 November 2016, at <https://www.trulia.com/blog/trends/low-income-housing/>.
- ^{vi} Office of Economic and Demographic Research, 2016 Local Government Financial Information Handbook, at <http://edr.state.fl.us/Content/local-government/reports/lgfh16.pdf>
- ^{vii} U.S. Department of Housing and Urban Development, Office of Policy Development and Research, Impact Fees and Housing Affordability: A Guide for Practitioners, June 2008, at <https://www.huduser.gov/portal/publications/affhsg/impactfees.html>.
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- ^{xvii} Matt Brown, What are the barriers to ADU development?, August 2014, at: <https://accessorydwellings.org/2014/08/21/what-are-the-barriers-to-adu-development/>.

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^{xviii} Ibid, Accessory Dwelling Units: A Smart Growth Tool for Providing Affordable Housing.

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^{xxii} Karen Chapple, Jumpstarting the market for accessory dwelling units, UC Berkeley Blog, May 2017, at <http://blogs.berkeley.edu/2017/05/23/jumpstarting-the-market-for-accessory-dwelling-units/>.

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Implementation of the State Housing Initiatives Partnership Program

ⁱ Only five percent of program income may be used for administrative expenses, except that local governments receiving \$350,000 or less in SHIP allocation during a given year may use up to 10 percent.

ⁱⁱ Local SHIP plans may include strategies that the local government chooses not to allocate funds to in a particular year. This approach gives the community flexibility to move funds between strategies over time based on need without having to re-adopt the plan each time.

State Implementation of Rental Housing Programs

ⁱ Other programs are used to augment the financing provided for rental development, including the Predevelopment Loan Program used by nonprofits and public housing authorities to obtain upfront capital for predevelopment activities required before vertical construction; State Grants for Persons with Developmental Disabilities; National Housing Trust Fund Program dollars to augment developments to serve extremely low income households; and Florida Housing funding for demonstrations to pilot the use of funds in new ways to serve Floridians.

ⁱⁱ These data reflect the first date that a property was built, not renovations that have taken place in the meantime. It does appear to include newer dates for redevelopments.

ⁱⁱⁱ Shimberg Center for Housing Studies, Florida Housing Data Clearinghouse: Assisted Housing Inventory, University of Florida, http://flhousingdata.shimberg.ufl.edu/a/ahi_basic. Assisted housing developments often have several layers of subsidies in place with different expiration dates. This analysis takes a conservative approach and only counts a development at risk if it does not have other subsidies in place with later expiration dates.

^{iv} Florida Housing Finance Corporation, 2016 Annual Report, at https://issuu.com/fhfc/docs/fhfc_annual_report_2016_082217_web.

^v Pursuant to s. 420.0004(13), F.S., "Specials needs" includes an adult person requiring independent living services in order to maintain housing or develop independent living skills and who has a disabling condition; a young adult formerly in foster care who is eligible for services under s. 409.1451(5); a survivor of domestic violence as defined in s. 741.28; or a person receiving benefits under the Social Security Disability Insurance (SSDI) program or the Supplemental Security Income (SSI) program or from veterans' disability benefits.

ENDNOTES

^{vi} Permanent supportive housing is independent, affordable housing linked to community based services tailored to meet the needs of the people living in these units. Units are not time limited – they are available to the residents if they meet landlord-tenant requirements typical of any rental situation.

^{vii} In some years the proviso has been directed more specifically to persons with a disabling condition.

^{viii} U.S. Department of Housing and Urban Development, Procedures for Providing Reasonable Accommodation 2013, at https://www.hud.gov/program_offices/administration/hudclips/handbooks/sech/7855.1.

^{ix} Take two hypothetical households, both single moms with one child. One is a minimum wage, fast food worker working 30 hours per week (annual income ~\$12,600). Mom gets a voucher and pays \$316/month in rent for a 2-bedroom apartment. When she gets laid off, she just pays \$50/month in rent until she finds a new job. The other is an administrative assistant making \$23,000. She pays \$700/month for a 2-bedroom SAIL unit, which is 37 percent of her income, but it's well below the \$1,000/month FMR in her county, and she's living in a newer, high quality unit. If she loses her job, she may be evicted, because there is no voucher safety net.

APPENDIX



FLORIDA HOUSING FINANCE CORPORATION BOARD OF DIRECTORS LETTER and IMPACT FEE SURVEY



December 22, 2017

The Honorable Rick Scott
Governor, State of Florida
PL-05 The Capitol
Tallahassee, FL 32399-0001

The Honorable Joe Negron
President, The Florida Senate
409 The Capitol
Tallahassee, FL 32399-1100

The Honorable Richard Corcoran
Speaker, Florida House of Representatives
420 The Capitol
Tallahassee, FL 32399-1300

Dear Governor Scott, President Negron and Speaker Corcoran:

On December 8, 2017, the Board of Directors of Florida Housing Finance Corporation approved the Affordable Housing Workgroup's recommendations to fulfill the requirements of Chapter 2017-071, Laws of Florida. The Board chose to provide supplemental comments on three of the recommendations, all found in the State Implementation of Rental Programs report section.

Workgroup Recommendation: Florida Housing Finance Corporation should continue efforts to reduce the allocation of awards based upon the lottery.

Board Comment: The Board assures the Governor and Legislature that Florida Housing uses the lottery to make awards for rental housing after exhausting all other scoring and threshold eligibility criteria provided in each competitive Request for Applications (RFA). Applicants chosen through the lottery are all deemed to be ready to proceed and are among the best applications received. Over the last five years since Florida Housing implemented its more flexible RFA approach, the use of the lottery has been reduced to just one-third of all awards. We constantly look for new ways to score and differentiate applications from one another to keep the use of the lottery as minimal as possible.

Workgroup Recommendation: Florida Housing Finance Corporation should assess its application process with the goal to remove or simplify scoring items that are most likely to be litigious, but should maintain scoring items that allow the corporation to differentiate and choose the best developments for funding. With these changes, Florida Housing Finance Corporation must adopt an approach that discourages developers from not having completed

Rick Scott, Governor

Board of Directors: Bernard "Barney" Smith, Chairman • Ray Dubuque, Vice Chairman
Natacha Bastian • Renier Diaz de la Portilla • LaTasha Green-Cobb • Creston Leifried • Ron Lieberman
Julie Dennis, Florida Department of Economic Opportunity

Harold "Trey" Price, Executive Director

The Honorable Rick Scott, Governor
The Honorable Joe Negron
The Honorable Richard Corcoran
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“ability to proceed” items by the start of the credit underwriting process. Before implementation, the corporation should workshop these proposals with stakeholders participating in Florida Housing Finance Corporation programs.

Board Comment: The Board believes that, in addition to items in its applications, the broader process should be examined to consider how to expedite and simplify the scoring, litigation, underwriting and closing processes. It is critical that Florida Housing not change RFA requirements that may inadvertently result in developers taking inappropriate advantage of the application process, thereby creating more litigation and time delays.

Workgroup Recommendation: Florida Housing Finance Corporation should convene a working group to develop policies to fulfill the requirement that all developments with the commitment to set aside units for extremely low income households with special needs through the Link Strategy comply with the requirement and hold them available until a referred household leases the unit. The working group should include developers, property managers, participating Link supportive service providers and others to develop such an approach, including policies to address when exceptions to this requirement are needed.

Board Comment: It is critical that properties are not required to hold units open indefinitely to serve Link referred households in the event that the Link process does not provide adequate tenant referrals to these properties. Florida Housing will work with stakeholders, including property owners, to balance this requirement to ensure that property owners are not penalized when Link Strategy referral organizations are unable to provide tenants to fill Link units in an expedient manner.

The Board appreciates the many hours of work invested by the Workgroup members, and we look forward to doing our part to implement the Workgroup’s recommendations. Thank you for the opportunity to help Florida residents gain access to decent, affordable housing.

Sincerely,



Bernard E. “Barney” Smith
Chair

Rick Scott, Governor

Board of Directors: Bernard “Barney” Smith, Chairman • Ray Dubuque, Vice Chairman
Natacha Bastian • Renier Diaz de la Portilla • LaTasha Green-Cobb • Creston Leifried • Ron Lieberman
Julie Dennis, Florida Department of Economic Opportunity

Harold “Trey” Price, Executive Director

APPENDIX

IMPACT FEE SURVEY OF SHIP ADMINISTRATORS, NOVEMBER 2017

T = By Type of Unit

S = By Square Footage

F = Flat Fee

W = Waivers/Reductions/Deferrals

LOCAL	T	S	F	W	PERSPECTIVE
Alachua County		S			Base the impact fee on unit size. Do not have anything in place to reduce the cost or waive the impact fee.
Bay County	T		F		Bay County charges a flat fee for residential based on the type of dwelling unit. Impact fee reduction is a strategy used to produce affordable housing.
City of Boynton Beach	T	S	F	W	Impact Fees are levied at flat rates according to: <ul style="list-style-type: none"> • Type and size of residence • Number of bedrooms Certain waivers may be considered depending upon if there was ever a dwelling at the site in the past; permitting process is expedited if project is certified affordable.
City of Bradenton	T	S			Imposes impact fees by square footage, number of fixtures, or type of unit depending on what the fee is for.
Broward County	T			W	School impact fees are assessed based on the type of dwelling units and the number of bedroom for each type of unit. Transportation concurrency impact fees are assessed based on the number of PM peak hour trips generated by the number of dwelling units and type of units. Per the Land Development Code Sec. 5-182(a)(5)3), applications for building permits for "very low income" and "low income" affordable housing projects, as defined in Division 6 of this article, shall be eligible for a waiver of one hundred percent (100%) of the Transportation Concurrency Assessment.
Calhoun County					None
City of Cape Coral	T			W	By type of development/construction: 1) residential – single family duplex; 2) commercial – multifamily over 3 units and non-residential uses. In the process of implementing a pilot impact fee program for affordable housing. Single family impact fees levied by the City would be deferred until the first sale of the property. This program will be limited to non-profit housing developers. Multifamily impact fees will be bought down over a period using a Synthetic Tax Increment Financing model.
Charlotte County	T		F		Flat rate levy by type of property being built. In the process of developing a request for a reduction or waiving of all fees for affordable housing. This is not being embraced by the Board of County Commissioners because their consensus is that the County's impact fees are 40% of what they should be.

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Citrus County				W	<p>Promote the development of affordable single family residential homes by charging transportation impact fees at a reduced level and deferring impact fees for 10 years for qualified affordable housing. The impact fees will be permanently cancelled after 10 years unless the home is sold.</p> <p>Qualified Affordable Housing - Homes with less than 1,500 square feet of living area (site built, mobile home, modular, etc.) and occupant households being at or below low income (80% of area median income, adjusted for family size as defined by the U.S. Department of Housing and Urban Development (HUD).</p> <p>Only lower income owner occupants and Not-for-Profit Single Family Residential Housing Developers working with eligible clients will be eligible for the Affordable Housing Land Use Category and Deferral of Impact Fees. This must be the homestead property of the owner occupant. Owners that own or intend to own investment property are not eligible. Homes built for "speculation" by builders or developers are not eligible.</p>
Clay County	T		F	W	<p>Currently, school impact fees are in place. The school impact fees are a flat rate of \$7034 for a single-family residence, \$5979 for a mobile home, and \$3236 per unit for multifamily (apartments). These fees are not eligible for deferral or waiver. Transportation impact fees are scheduled to begin being imposed January 1, 2018. The transportation impact fees for housing are: (1) single family (detached) less than 1500 sf and very low income: \$1214; (2) single family (detached) less than 1500 sf and low income: \$1824; (3) single family (detached) less than 1500 sf: \$2764; (4) single family (detached) 1500 to 2499 sf: \$3461; (5) single family (detached) 2500 sf or larger: \$3910; (6) multifamily (apartment-per unit): \$2242; (7) residential condominium/townhouse: \$1952; (8) mobile home park per home: \$1273; (9) assisted living/congregate care facility: \$330; (10) recreational home/vehicle: \$1397. Affordable housing and workforce housing impact fee deferrals from the payment of transportation impact fees are available upon application to Clay County.</p>
City of Coconut Creek					<p>To implement an affordable housing program, an affordable housing linkage fee is paid at the time of the issuance of building permits for all non-residential development.</p> <p>Industrial \$0.37 per square foot Commercial \$1.36 per square foot Office \$0.15 per square foot Hotel \$2.42 per square foot Limited service hotel \$0.70 per square foot</p> <p>As an alternative to payment of the housing linkage fee, a developer of non-residential project or mixed-use project may submit a request to produce affordable housing units, which request can be granted in the form of a developer's agreement approved by the city commission.</p>
Columbia County					None
City of Daytona Beach				W	<p>Discounts its permit filing fees by 50% for affordable housing projects. Additionally, permits for affordable housing projects are expedited to a greater degree than other projects. The City also donate real property from its inventory for use in producing permanent affordable housing.</p>

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City of Deerfield Beach					Police, Fire and Parks impact fees. The City is located in Broward County which allows any municipality to assess fees for affordable housing in a land use or rezoning change if, more than 100 units are proposed and if a study determines that affordable housing is needed. To date, the City has not exercised this option.
City of Deltona	T	S			By type of residence (single family or multifamily) and by square footage. No waivers.
DeSoto County					None
Dixie County					None
Duval County					None
Escambia County					None
Flagler County	T			W	Impact Fees for transportation, parks and recreation, and educational facilities, with the transportation impact fee presently in a moratorium. These fees are collected for development within unincorporated Flagler County and for development within the City of Bunnell through interlocal agreement. The fees are based on type of land use and vary based on the type of unit being developed: single-family residential, multifamily residential, or mobile home residential. Currently an exemption from educational facilities impact fee for low-income housing. In the past, the County has sporadically waived impact fees by paying them from County funds. Such waiver/payment by the County is subject to Board of County Commissioner review and approval.
City of Fort Lauderdale		S	F		Parks Impact Fee (by dwelling unit size unit; flat fee for hotel/motel rooms).
City of Fort Meyers	T	S	F		The impact fees for residential structures are assessed at a flat per unit rate based on the unit type (SF, MF/SFA/Duplex, Mobile Home) while the impact fees for commercial structures are based on square footage and type of use. Currently there are no waivers or reductions in place.
City of Fort Pierce	T				Impact fees are assessed by type of residence primarily, with the variable of size of unit if a Single-family home. No reduction, waiver or change in process for affordable housing projects, however density and other development incentives exist for affordable housing projects.
Franklin County					None
City of Gainesville					None. The City does require the payment of Connection Fees for water and wastewater. In some ways, Connection Fees are similar to Impact Fees (for example, Connection Fees are used for long term maintenance and infrastructure). Connection Fees are assessed by type of residence and there is no reduction, waiver or change in process for affordable housing projects.
Gilchrist County					None
Hamilton County					None
Hendry County					None
Hernando County	T				Assessed by type of residence.

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City of Hialeah			F		Any new construction or addition that it is done in the City has to go to Miami Dade County and they assess an impact fee. The City of Hialeah only charges a Parks Impact Fee and Fire Impact Fee for multifamily projects and it's a flat rate.
Highlands County	T	S	F	W	<p>Currently, a moratorium in place on impact fees. When the County decides to implement impact fees again, a new study for all impact fee categories will need to occur and categories and rates will be decided with that study. Historically, residential impact fees were based on the following categories.</p> <ol style="list-style-type: none"> 1. Single-Family (less than 1,500 sq. ft., 1,501-2,408 sq. ft., greater than 2,500 sq. ft.). A flat rate will be evaluated in future studies. 2. Multifamily (Flat Rate) 3. Mobile Home (Flat Rate) 4. Retirement/Age-Restricted Single-Family (Flat Rate) <p>Affordable Housing was exempt from impact fees as long as it met the criteria of Affordable Housing outlined in the Impact Fee Ordinance.</p>
Hillsborough County	T	S		W	Assess residential using a mixture of methods including location in the County (the zone). Mobility is Type and Size; Parks is Type and Bedroom count; School is Size; and Fire is a Flat rate. Affordable Housing has a program to provide relief. Multifamily developments are provided 90% relief for Park, Fire and Mobility fees. Single family construction is provided 100% relief for all but School Impact fees. Hillsborough County can also lower the Mobility Fee for houses less than 1500 square feet of living area if Affordable Housing provides documentation that shows the Annual HH Income meets select SHIP definitions (less than 50%, and between 50-80%).
City of Hollywood		S			"Park Impact Fee" assessed on square footage basis for single family or multifamily residential units and on a per room basis for hotel/motel units. Other impact fees are assessed by Broward County. No waivers, however, affordable housing projects are given a priority in the permitting process.
Indian River County	T	S			<p>Charges impact fees per unit by type of the unit (single family, multifamily, mobile homes). To lessen the burden on smaller affordable housing single family units IRC has three categories for single family impact fees based on the size of the unit (less the 1500 Sq. Ft., between 1500- 2499 Sq. Ft., or 2500 Sq. Ft. and larger).</p> <p>Because impact fees are based on fair share payments by the people benefiting from the capital improvements, impact fees and utility capacity charges cannot be waived or reduced for any individual group or category of construction. On the other hand, those fees increase the cost of housing and put a burden on the production of affordable housing projects. To lessen the impact of those fees on affordable housing projects, the cost of impact fees may be paid by other funding sources. IRC pays impact fees for VLI, LI, and MI households with SHIP funds (i.e. Habitat for Humanity (HFH) clients for building their new single family units always apply for and use SHIP funds for impact fee payments.</p>
Jackson County			F		Flat rate impact fees for single family residences in the amount of \$500 each for water and sewer.
City of Kissimmee	T				Assessed by type of residence.

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Lafayette County					None
Lake County	T			W	Flat fee that covers road, school, fire, parks, and library. County will not waive impact fees for developments unless the development is located near a school, and then the School Board must vote on whether to grant that waiver. The County typically won't waive impact fees though. The city where the development is located might, and has on many occasions if the development adds to the economic value of the area that its developing in.
City of Lakeland	T			W	By type of residence. City's Affordable Housing Incentive Plan provides for waiver of impact fees, in full or in part, for qualified affordable housing projects.
City of Largo	T			W	Charges impact fees (sewer and water, mobility and parkland/recreation) based on Type of Residence. A housing development that requests approval to be deemed an "Affordable Housing Development" may receive assistance with the impact fees from our SHIP program for the affordable set-aside units.
Lee County	T			W	Assessed by type of unit. The Lee County Board of County Commissioners and the School District have established a program that reimburses up to half (50%) of the amount paid for school impact fees for new construction of single-family or multifamily homes to be occupied by income eligible households.
Leon County					None
Madison County					None
Manatee		S			Now utilize square footage. Board just approved an innovative new program called Livable Manatee. LG will pay, from a County source, the County Impact Fees, School Impact Fees and Facility Investment Fees for new construction affordable units for both homeownership and rental up to a maximum of \$500,000 per development (have resolution putting this into effect). The fund is a limited fund that once depleted may or may not be re-established. LG is legislatively looking into the possibility of fee waivers for affordable housing units that would help us to continue this program effectively.
Marion County		S			Residential Impact fees based on size. Only adopted and collect 10% of what the impact study said the cost of a residential unit is (\$10,000 in capacity cost per unit, we collect \$1000).
Margate	T		F		Police and Fire & EMS (flat fees for residential, per 1000 SF for nonresidential) Water Connection and Waste Water Surcharge (by unit type). Do not have any policy in place for fee reductions, waivers or process for affordable housing.
Martin County		S		W	Impact fees are assessed by size of unit and Martin County allows to defer impact fees for affordable housing.
City of Miami	T				Levies by type of residence. There is a deferral of impact fees for affordable housing with a covenant that it remains affordable housing in perpetuity. The impact fees are paid at the prevailing rate if the property is no longer an affordable housing property.

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City of Miami Beach	T				The concurrency fee for affordable housing is based on the number of units proposed. As far as parking, it is 0.5 parking space per dwelling unit for elderly housing or 1.00 parking space per dwelling unit of 800 square feet or less for non-elderly low and/or moderate-income housing. Elderly person shall be defined as a person who is at least 62 years of age. Non-elderly person is a person who is of legal age but less than 62 years of age. Elderly household means a one- or two-person household in which the head of the household or spouse is at least 62 years of age. Non-elderly household means a one- or two-person household in which the head of the household or spouse is of legal age but less than 62 years of age. At the moment, staff is amending certain parking requirements for affordable housing.
Miami-Dade County	T			W	By type of use and region in the County. Impact fees are required to be paid prior to the issuance of any building permit for development activity within Miami-Dade County. No building permit may be issued until all required impact fees are paid in full. Miami-Dade County collects impact fees for Road, Fire and Emergency Services, Police Services, Parks and Educational Facilities. The application is reviewed for size (a square footage maximum) and type of land use for the new development. Ordinances exempt from the required payment of impact fee housing units which provide affordable housing for low and very low-income families.
City of Miramar	T		F		Flat rate fees: Police & Fire is per dwelling unit; Parks & Recreation are calculated per bedroom; Water & Sewer is a flat rate too.
Monroe County			F	W	County collects a flat fee on new market rate residential dwelling units. Replacement market rate residential dwelling units are not charged impact fees regardless of the size of the unit (larger or smaller). Deed restricted affordable housing dwelling units are not charged any impact fees.
Nassau County	T				Working on revising affordable housing incentives through the needs assessment process but for now these are usually incorporated into PUDs/ Developer agreements as bonuses to allow for an increase in density for the provision of affordable housing units. It's possible the County will have additional measures/approaches next year.
City of Ocala		S			Impact fees (water, sewer) for homes are assessed based on the square footage under air/heated space. Apartments/condos are assessed based on the number of bedrooms they have. There is no concession for affordable housing projects within impact fee ordinance (70-502), but there is an Affordable Housing Fund that can offset the development fees.

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Okaloosa County					<p>Okaloosa County Water & Sewer refers to impact fees as Capacity Expansion Charges (CECs). There are unit prices for CECs that are based on Equivalent Residential Units (ERU). An ERU is the equivalent of one single family residence. Most single family residential construction units are charged for one ERU for sewer and one ERU for water, depending on sewer and/or water being available to the property. For apartments and condos, each unit would be charged on ERU. A 20-unit apartment project would be charged for 20 ERUs with possible additional ERUs for pools, public bathroom, etc. There are various methodologies for determining how many ERUs to charge for non-residential projects. The most common is the number of gallons per day of potential demand. One ERU is calculated as either 300 gallons per day per ERU or in some cases 350 gallons per day per ERU. ERUs on non-residential projects can also be based on formulas which use square footage, or in the case of restaurants, numbers of tables, etc.</p> <p>No provision for reduction, waiver or change in process for any reason. This is a requirement in the County's bond covenants.</p>
Orange County	T				<p>Impact Fees are levied and assessed by type of residence (single-family vs multifamily). For affordable housing projects, impact fees are not reduced or waived, but may be deferred until construction is complete.</p>
City of Orlando	T			W	<p>Levies Transportation, Parks and Sewer Impact fees based on the type of residence. A discount is applied to affordable housing projects for Transportation and Parks impact fees. Sewer Impact fees can be reimbursed for affordable housing if SHIP funds are available.</p>
City of Palm Bay		S	F		<p>The City annually adopts Fair Share Impact Fees by Resolution. The fees are a combination of flat fee and calculated additional fees based upon square footage. No waiver or reduction is permitted; however, the Growth Management Director retains authority to structure a payment plan.</p>
Palm Beach County	T	S	F		<p>By flat rate, type of residence and size of unit. Palm Beach County's impact fee program is comprised of 7 impact fee components. The road, law enforcement and fire rescue impact fees are flat rates depending upon whether single family or multifamily. The remaining impact fee components are contingent upon the square foot size of the proposed construction. Palm Beach County does not waive impact fees. However, the BCC has approved an affordable housing assistance program that may assist with the payment of road, public building and park impact fees. Assistance is dependent upon funding availability and approval of the Board of County Commissioners.</p>
City of Panama City					<p>Panama City uses the number of new water and sewer fixtures per unit as the triggers for determining impact fees. No longer offers impact fee reductions as a strategy to produce affordable housing.</p>
City of Pembroke Pines	T				<p>Impact fees (fire, police) are assessed by type of residence.</p>
City of Pensacola					<p>None</p>

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Pinellas County	T				Multi-modal impact fee by residence type.
City of Plantation	T				By residence type. No reductions for affordable housing.
Polk County	T			W	Provides full waiver of impact fees for affordable housing developments, single and multifamily for households making less than 80% of area median income. The County also provides mitigation of 50% of impact fee costs for workforce housing developments, single family and multifamily for households making up to 120% of area median income for the Lakeland – Winter Haven MSA.
City of Pompano Beach	T		F		Charges impact fees for parks (community and neighborhood parks). These park impact fees are determined based on the location in the city, the type of residential structure (i.e. single family, townhomes, garden apartment, etc.), and number of bedrooms. Do not give waivers for affordable housing at this time.
City of Port St. Lucie		S			Tiered impact fees based on square footage for unit. Reduction of impact fees for in-fill housing or housing in different areas of the city, such as CRA, etc.
St. John's County		S			By size of unit (>1,800 sq. ft.; <1,800 sq. ft.). There is an ordinance that allows for the expedited review of affordable housing developments. However, it has not been utilized in many years.
St. Lucie County	T		F		Both flat rate and by the type of residence. One for a single-family home, one for multifamily, etc. and not based on size. The fire impact fee is different for multifamily if it is more than 3 floors in height. No waivers for affordable housing.
City of St. Petersburg		S	F		Approved an Ordinance on July 13, 2017 that establishes a flat fee of \$250.00 for single-family residential properties that are less than 1400 SF in size. By comparison, the fee scheduled that was revised, a new 1200 sf home that had a construction value of \$100,000 would have been charged \$787.50 in permit fees.
Santa Rosa					None. Impact fees were first collected by Santa Rosa County 1/1/2006 and were suspended indefinitely as of 12/31/2009. When collected: SFR = \$2,090 for Urban areas and \$1,222 for Rural areas; Multifamily = \$1,468 Urban and \$858 for Rural (per unit). Would be collected in either one lump sum amount or payments over a 7-year tax period.
Seminole County	T				Impact fees based on unit type and region of County. The largest single impact fee is the school impact fee. Seminole County has been examining ways to provide a modification of impact fee requirements including but not limited to reduction, waiver or alternative methods of payment of impact fees. To date, a funding source as not been identified to provide an alternative payment of impact fees. The funding source, policy and procedures to implement such a program has not been located and implemented.
Suwannee County					None

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City of Tamarac					Currently use a negotiated development agreement for impact fees. In the process of doing a fee study and will most likely change that model pending the recommendations from the study.
City of Tampa		S			School Impact Fee is based on square footage (these apply only to projects with residential occupancies). For utilities, some are based on meter size, but there are also charges based on area and special considerations that may be unique to a given project. Do have multimodal fee exemption areas (Ybor and East Tampa). Do not exempt for affordable housing, per se, but Ybor and East Tampa are considered blighted. Multimodal fees have not changed since 1989.
City of Titusville	T				Impact fees based upon type of use and number of units. There is a deferment in place for affordable housing projects.
Union County					None
Volusia County	T				Residential impact fees are levied by type of residence: Single Family, Apartment, Residential Condominium/Townhouse Complex, Mobile Home within a Park. There is not reduction, waiver or change in process for affordable housing.
Walton County			F		Building department collects \$25 fire impact fees per house at building permit. City of DeFuniak does not waive water and sewer tap and impact fees but makes a contribution to the project on the amount of the fees.



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