



Patricia Fitzgerald, President of the Florida Realtors (the Realtors were 1,000 people strong at the Capitol on Housing Day) stressed that SHIP is needed now to help Florida's real estate market recover from the foreclosure crisis and assist families achieve the American Dream of affordable homeownership, by providing down payment and closing cost assistance at a time when more opportunities are available.

2011 Legislative Wrap Up

By Mark Hendrickson and Jaimie Ross

Campaign to Repeal Cap Comes to Successful Conclusion



The landmark William E. Sadowski Affordable Housing Act, passed in 1992, created a dedicated revenue source by increasing the documentary stamp tax paid on real estate transactions and directing that revenue into Florida's state and local housing trust funds to support housing programs such as SHIP and SAIL. Beginning in 2007, a cap went into effect which statutorily redirected the doc stamp money intended for housing into general revenue, so that once \$243 million had flowed into the housing trust funds all

additional monies would automatically be diverted away from housing.

For five years, the Sadowski Coalition's priority has been to repeal the cap put on the state and local housing trust funds which took effect in 2007. Capping the trust funds was a way to permanently redirect to general revenue all monies otherwise dedicated to affordable housing. The cap was set at approximately \$243 million- which meant that regardless of the doc stamp monies generated from the Sadowski Act; no more than \$243 million would be available from the trust funds for appropriation to Florida's housing programs. With the passage of HB 639, the campaign to repeal the cap has finally come to a successful conclusion.

The importance of repealing the cap on the trust funds can not be overstated. Right now the real estate market is depressed, which means that doc stamp collections are currently below the cap amount. But as the real estate market recovers, the documentary stamp collections will increase and what seems inconsequential in 2011 will amount to much needed revenue for affordable housing in future years as collections once again exceed \$243 million annually.



We need to give tremendous credit to our leaders in the legislature, most specifically to Representative Aubuchon and Senator Bennett, as well as the members of the leadership team, and of course, to all of you and your memberships for working so tirelessly. The Florida Housing Coalition’s statewide member organizations, such as Habitat for Humanity of Florida, the Florida Supportive Housing Coalition, the Florida Coalition for the Homeless, the Florida Realtors, the Coalition of Affordable Housing Providers, the Bankers, and all the individual and local organizational members of the Florida Nonprofit Housing Advocates Network were key. Everyone responding to our *Legislative Action Alerts*, meeting with legislators in person, and showcasing the great work you do was a critical part of our success this session. For providing substantial support to the Sadowski Education Effort, Florida’s Local Housing Finance Authorities are also owed special thanks.

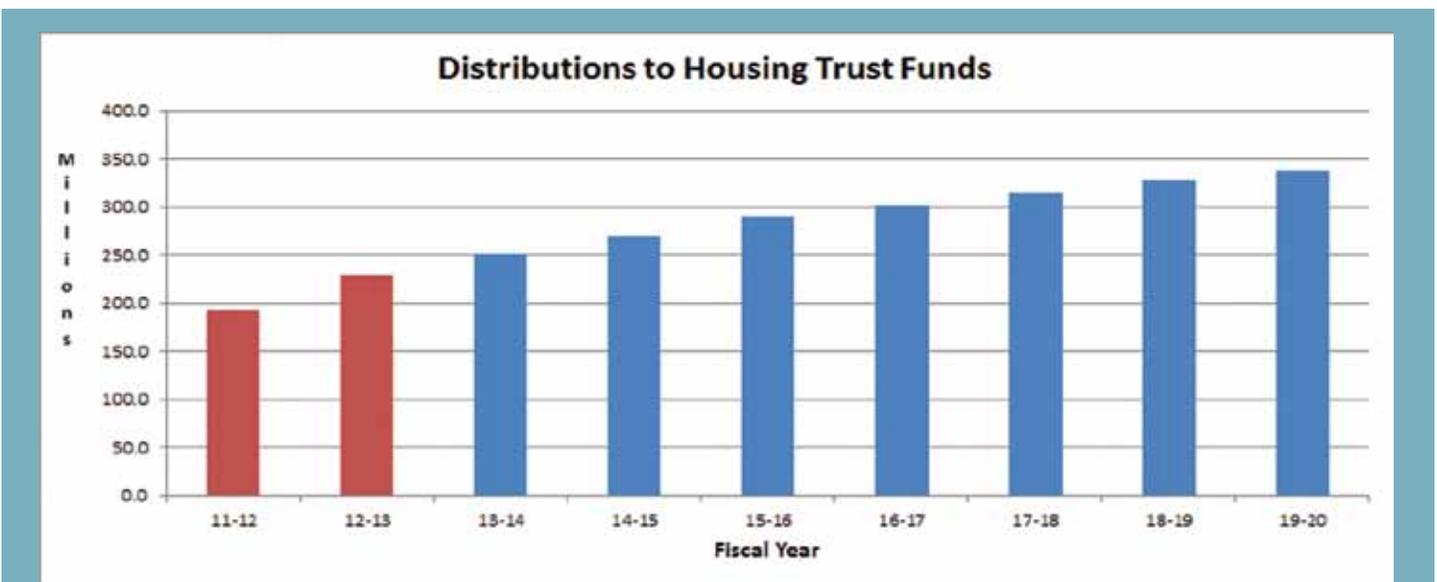


Representative Gary Aubuchon (R), District 74 and Senator Mike Bennett (R), District 21, championed the repeal of the cap.

Suspension of New Construction from Trust Fund Monies

The centerpiece of HB 639 is repeal of the cap, but the 32-page bill contains a number of other provisions, including a finding that “due to the current economic conditions in the housing market there is a critical need to rehabilitate or sell excess inventory of unsold homes, including foreclosed homes and newly constructed homes as well as a critical need for the rehabilitation and preservation of older, affordable apartments... and that there is a critical need to

create housing related jobs and that these conditions require the targeting of state and local housing trust fund monies for those purposes. The Legislature further finds that funds appropriated from the state or local housing trust fund may not be used for housing that has not received its certificate of occupancy prior to December, 31, 2010 or for rental housing unless it received its certificate of occupancy prior to December 31, 1996. This “no new construction” provision expires July 1, 2012. No trust fund monies were appropriated this session, so the “no new construction” provision is not attached to any housing monies.



The bar graph illustrates that over the next eight years, the Housing Trust Funds are projected to receive \$2.3 billion in doc stamp monies, over \$392 million of which would otherwise have gone to general revenue if the cap had not been repealed.

Additional Highlights from HB 639:

- An amendment to the housing element requirements adding persons 60 years of age or older to the list of populations that local governments address and providing that real property that is conveyed to a local government for affordable housing shall be disposed of by the local government pursuant to the surplus lands statutes section 125.379 or section 166.0451
- Persons with special housing needs are defined as 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 ...; a survivor of domestic violence ... or a person receiving benefits under the SSDI or the SSI program or from veterans' disability benefits. Persons with special housing needs are added to the list of tenant groups that receive a set-aside from the SAIL program and in each area of the SAIL statute that lists other categories of tenants such as farmworker and the homeless. Persons with special housing needs population are also included in the state housing strategy; a population to be included in the Shimberg Center studies.
- A repeal of the preference for developers and contractors domiciled in Florida and for those who have completed at least five deals with FHFC. (the provisions enacted in SB 360 in 2009 and reenacted in HB 7003 in 2011) Instead, the FHFC is to provide by rule, in connection with any of its competitive programs,



Lori Pampilo Harris, Florida Housing Coalition's Advocacy Committee Chair and Executive Director of Habitat for Humanity of Florida, credits the SHIP program for making Florida's Habitat Affiliates the most productive in the nation, having assisted 11,000 families across Florida.

criteria establishing “where all other competitive elements are equal, a preference for developers and general contractors who demonstrate the highest rate of Florida job creation in the development and construction of affordable housing”

Affordable Housing Bill from 2009 Reenacted in 2011

Senate Bill 360, enacted in 2009, faced a constitutional challenge and was therefore reenacted in the 2011 session. The original bill contained numerous substantive areas, including affordable housing and growth management. Chapter 2011-15, House Bill No. 7003 (SB 176) reenacted the affordable housing portions of the 2009 legislation on April 27, 2011.

Highlights:

- Reenacts Section 193.018 that provides direction to property appraisers to appraise community land trust property at its ground lease restricted resale value.
- Reenacts Section 196.196 that provides property tax exemption to nonprofits (501 (c) (3) organizations) if affirmative steps are taken to prepare the property to provide affordable housing – gives nonprofit up to five years to put the property “in use” for affordable housing.
- Reenacts Section 196.1978 that provides property tax relief to limited partnerships provided the sole general partner is a 501 (c) (3) and limited liability companies or limited partnerships which are disregarded as an entity for federal income tax purposes pursuant to Treasury Regulations.
- Reenacts Section 420.503 that defines “moderate rehabilitation” to mean repair or restora-

tion that is 40 percent or less of the value of the unit but not less than \$10,000.

- Reenacts Section 47 of Section 420.507 that directs the FHFC to establish a preference for developers and general contractors domiciled in Florida and those who have “substantial experience” in developing or building affordable housing through FHFC programs. “Substantial experience” is defined as having completed at least five developments using FHFC funds. (This entire section was subsequently repealed in HB 639, as explained above)

Reorganization of Department of Community Affairs, Creation of Department of Economic Opportunity and SEED Trust Fund

SB 2156 is an 838 page bill that was cobbled together through conference negotiations and passed on the last day of the 2011 session. It contains the creation of the Department of Economic Opportunity and the reorganizations of state agencies inside this new mega construct. The following is what we’ve culled as the most relevant to the Florida Housing Coalition membership.

Purpose of the Department of Economic Opportunity

The purpose of the department is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians. To accomplish such purposes, the department shall:

- (a) Facilitate the direct involvement of the Governor and the Lieutenant Governor in economic development and workforce development projects designed to create, expand, and retain businesses in this state, to recruit business from around the world, and to facilitate other job-creating efforts.
- (b) Recruit new businesses to this state and pro-



Jose Gonzalez, VP of Governmental Affairs for AIF, being interviewed by reporters after Housing Day Rally at the Capitol on April 13th. Business and industry groups, such as AIF, the Florida Home Builders Association, Florida Realtors and Florida Chamber of Commerce continually stressed the connection between housing and jobs.

mote the expansion of existing businesses by expediting permitting and location decisions, worker placement and training, and incentive awards.

- (c) Promote viable, sustainable communities by providing technical assistance and guidance on growth and development issues, grants, and other assistance to local communities.
- (d) Ensure that the state’s goals and policies relating to economic development, workforce development, community planning and development, and affordable housing are fully integrated with appropriate implementation strategies.
- (e) Manage the activities of public-private partnerships and state agencies in order to avoid duplication and promote coordinated and consistent implementation of programs in areas including, but not limited to, tourism; international trade and investment; business recruitment, creation, retention, and expansion; minority and small business development; rural community development; commercialization of products, services, or ideas developed in public universities or other public institutions; and the development and promotion of professional and amateur sporting events.

There are Four Divisions within the Department of Economic Opportunity

- The Division of Strategic Business Development
- **The Division of Community Development**
- The Division of Workforce Services
- The Division of Finance and Administration

The Florida Housing Finance Corporation will continue to have the same statutory relationship with the Department of Economic Opportunity that it has had with the Department of Community Affairs. Basically everywhere in the statutes that it read Department of Community Affairs, it now reads Department of Economic Opportunity. For instance, now the executive director of the Department of Economic Opportunity sits as an ex officio voting member of the nine member board of directors for the FHFC. However, a statutory change was made to 420.511, Florida Statutes, that now permits the executive director to designate a “senior level agency employee” to sit on the FHFC board in the executive director’s stead.

The Division of Community Development

1. Assists local governments and their communities in finding creative planning solutions to help them foster vibrant, healthy communities, while protecting the functions of important state resources and facilities.

2. Administers state and federal grant programs as provided by law to provide community development and project planning activities to maintain viable communities, revitalize existing communities, and expand economic development and employment opportunities, including:

- The Community Services Block Grant Program;
- The Community Development Block Grant Program in chapter 290;
- The Low-Income Home Energy Assistance Program in chapter 409;
- The Weatherization Assistance Program in chapter 409;

Funds Transferred from the Department of Community Affairs to the DEO

1. State Housing Trust Fund
2. Community Services Block Grant Trust Fund
3. Local Government Housing Trust Fund
4. Small Cities CDBG Trust Fund
5. Federal Grants Trust Fund
6. Grants and Donations Trust Fund
7. Energy Consumption Trust Fund
8. Low-Income Home Energy Assistance Trust Fund

The Office of Homelessness will remain within DCF.

- The Neighborhood Stabilization Program;
- The local comprehensive planning process and the development of regional impact process;
- The Front Porch Florida Initiative through the Office of Urban Opportunity, which is created within the division.

The Division of Community Development will also assist in developing the 5-year statewide strategic plan. Each of the four divisions is to come up with its portion of the 5-year statewide strategic plan.

SEED

The State Economic Enhancement Development trust fund (SEED) was first unveiled on April 1 in the committee on Government Reorganization. It was explained by key sponsor, Representative Gary Aubuchon, that this proposal to permanently redirect the state and local housing trust funds to a newly created trust fund, which has as affordable housing as one of its express purposes, was the House alternative to the proposal by the Governor to eliminate the state and local housing trust funds entirely (con-

tained in the Governor’s proposed budget unveiled in February) and the Senate’s proposal to permanently redirect all the state and local housing trust fund monies to general revenue (originally contained in SB 2156). Once the House learned that the Senate was poised to eliminate the dedicated revenue source for affordable housing, the SEED proposal, which would redirect the housing money to this new economic development trust fund and include housing as one of the eligible uses, seemed the lesser of the evils.

Ultimately, the Senate backed off from its proposal to permanently redirect the housing trust fund monies to general revenue and reluctantly agreed to pass the SEED legislation, deferring all funding for SEED until 2012. Enterprise Florida and the DEO have to submit business plans to the legislature by September 1, 2011, which may be the basis for implementing SEED in 2012. As SEED currently stands, it is not self implementing, as it does not prescribe the manner in which applications are to be made and does not provide criteria for awarding funds from the SEED trust fund. The concept is that the legislature sees a business plan before they (1) create the SEED administrative system or (2) appropriate money for SEED.

Beginning July 1, 2012 (FY 12-13) money that was going into the Housing Trust Funds and the Transportation Trust Fund flow into SEED as follows:

- FY 12-13: \$125 million (\$75 million from Housing and \$50 million from Transportation)
- FY 13-14: \$140 million (\$75 million from Housing and \$65 million from Transportation)
- FY 14-15 and thereafter: \$150 million (\$75 million from Housing and \$75 million from Transportation)

Funding For Housing

We began the 2011 session with a strong push for funding. The estimated \$194 million available for appropriation from the state and local housing trust fund would have created approximately 15,000 jobs and over \$1.4 billion in economic activity. The political priority was jobs creation, so it seemed to housing advocates, including the whole Sadowski Coalition, that this would be the year to use the housing trusts fund money for housing—putting the out of work contractors back to work rehabilitating foreclosed homes and moving existing inventory to light a fire under the real estate market.

Just one week prior to the end of session, we faced permanent redirection of all the dedicated revenues from the Housing Trust Funds -- bills had passed the House and Senate with a permanent redirection--only to very different places. In the end, we avoided the redirect of the entire trust funds, with only \$75 million in permanent redirect from the state and local housing trust funds beginning in FY 2012 to the newly created SEED trust fund.

The funding available for appropriation in FY 2011-2012 was swept into general revenue. There was no appropriation for any of Florida’s affordable housing programs from the Florida Legislature. That means this year will be three years in a row that the SHIP program has not been funding. For local governments that do not receive any direct funding from the federal government or NSP funding, this is a critical juncture for the survival of the SHIP program. Repealing the cap on the trust funds is little comfort to a county that will soon have to close its housing department for lack of SHIP funding. For this reason, the Florida Housing Coalition is urging the Florida Housing Finance Corporation to use other funds to fund SHIP offices in Fiscal Year 2011-2012 to keep them afloat. The Florida Housing Finance Corporation Board will be considering that recommendation at its June board meeting.

Now that the Sadowski housing trust funds have been saved and restored to original form, get ready to brainstorm at the conference in September about next steps for ultimately restoring full funding of Florida’s job creating, critically needed, and model housing programs such as SHIP and SAIL. [HNN](#)

MARK HENDRICKSON, president of The Hendrickson Company, is a past Chair and serves as an Executive Committee member for the Florida Housing Coalition. He served as Executive Director of the Florida Housing Finance Agency from its inception in 1981 to 1994. As its first Chief Executive Officer, he led the way in creation of the Sadowski Act.

JAIMIE ROSS, attorney at law, is the Affordable Housing Director at 1000 Friends of Florida and the president of the Florida Housing Coalition. She initiated the Sadowski Coalition in 1991 and continues to facilitate the Sadowski Housing Coalition today. She is part of the state support team for legal service attorneys throughout Florida working under the Florida Bar Foundation grant to preserve affordable housing.