HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 573 Manufactured and Mobile Homes
SPONSOR(S): Insurance & Banking Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee		Collins	Cooper

SUMMARY ANALYSIS

Section 723.061(1)(d), F.S., provides that a mobile home owner and/or tenant can be evicted from his or her mobile home due to a change in the use of the land comprising the mobile home park. The Florida Mobile Home Relocation Corporation was created to provide payments to mobile home owners who are required to move due to a change in the use of the land comprising their mobile home park.

All funds for relocation payments are deposited into the Florida Mobile Home Relocation Trust Fund. Currently, Chapter 723, F.S., is silent as to the manner in which funds are to be disbursed by the Department of Business and Professional Regulation to the Florida Mobile Home Relocation Corporation. Instead, the funds are disbursed pursuant to a Memorandum of Understanding.

The bill amends s. 723.06115, F.S., to specify the manner in which funds are to be disbursed to the Florida Mobile Home Relocation Corporation. Specifically:

- At the beginning of each fiscal year, the Florida Mobile Home Relocation Corporation shall determine its operational costs and provide that amount to the Department of Business and Professional Regulation, in writing.
- Throughout the year, additional requests for necessary operational funding may be submitted to the Department of Business and Professional Regulation, in writing.
- As it deems necessary, the Florida Mobile Home Relocation Corporation shall advise the Department of Business and Professional Regulation, in writing, of the amount needed to make payments to mobile home owners under the relocation program.

The Department of Business and Professional Regulation must transfer the requested funds to the Florida Mobile Home Corporation within two business days of the written request. The funds may be placed in a non-interest bearing checking account.

The requirements set forth in the section effectively nullify any additional disbursement provisions, as listed in the Memorandum of Understanding or elsewhere.

The bill has no fiscal impact on state and local funds.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 723.061(1)(d), F.S., provides that a mobile home owner and/or tenant can be evicted from his or her mobile home due to a change in the use of the land comprising the mobile home park. The park owner must give the affected mobile home owners and tenants at least six months' notice of the eviction due to the projected change in use, and of their need to secure other accommodations.[1]

In 2001, the Florida Mobile Home Relocation Corporation (Corporation) was created to provide payments to mobile home owners who are required to move due to a change in the use of the land comprising their mobile home park, pursuant to s. 723.061(1)(d), F.S.[2] The Corporation is administered by a volunteer-based, six-member board.[3] The board also employs or retains attorneys, accountants, and administrative personnel to perform its duties.[4]

The corporation receives funding from three sources:

- An annual one dollar surcharge on mobile home lots located in a mobile home park, collected by the Department of Business and Professional Regulation (Department) pursuant to s. 723.007(2), F.S.;
- An annual one dollar surcharge on registration payments by mobile home owners collected by the Department of Highway Safety and Motor Vehicles; and
- Funds collected from mobile home park owners when the mobile home owner applies for payment of moving expenses or mobile home abandonment allowance.[5]

All funds are deposited into the Florida Mobile Home Relocation Trust Fund (Trust Fund), established by s. 723.06115, F.S. Chapter 723, F.S., does not specify how the funds are to be disbursed to the Corporation. Instead, the transfer of funds is conducted pursuant to a Memorandum of Understanding, entered into by the Department and the Corporation.

Currently, funds are disbursed to the Corporation on a monthly basis, less any amounts withheld for the required eight percent contribution to the general revenue fund.[6] According to the Department, during fiscal year 2011-2012, $759,376.86 was deposited into the Trust Fund while $698,945.71 of that amount was transferred to the Corporation.[7]

Effect of Proposed Changes

The bill amends s. 723.06115, F.S., to specify the manner in which funds from the Trust Fund are to be disbursed to the Corporation.

Specifically, the bill provides that the Department shall disburse funds from the Trust Fund to the Corporation using the following procedures:

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[1] Section 723.061(1)(d)2., Florida Statutes.
[2] See generally: ss. 723.0611, 723.0612, and 723.06116, Florida Statutes.
[3] Department of Business and Professional Regulation Internal Audit Report A-1112-BPR-032, page 2, dated October 4, 2012, on file with the Business and Professional Regulation Subcommittee.
[4] Id.
[5] Department of Business and Professional Regulation Internal Audit Report A-1112-BPR-032, page 1, dated October 4, 2012, on file with the Business and Professional Regulation Subcommittee.
[6] Memorandum of Understanding, page 2, dated February 9, 2011, on file with the Business and Professional Regulation Subcommittee.
[7] Department of Business and Professional Regulation 2013 Legislative Analysis of SB 378 (similar), page 4, dated January 31, 2013, on file with the Business and Professional Regulation Subcommittee.

- At the beginning of each fiscal year, the Corporation shall determine its operational costs and provide that amount to the Department, in writing. The Department must transfer that amount within two business days of the Corporation's written request.
- Throughout the year, additional requests for necessary operational funding may be submitted to the Department, in writing. The Department again must transfer the requested funds to the Corporation within two business days.
- As it deems necessary, the Corporation shall advise the Department, in writing, of the amount needed to make payments to mobile home owners under the relocation program. The Department must distribute the amount within two business days of the Corporation's written request.

The bill allows the Corporation to place funds received from the Trust Fund into a non-interest bearing checking account.

Finally, the bill specifies that other than the requirements set forth in the section, neither the Corporation nor the Department is required to take any other action in order for the Corporation to receive distributions from the Trust Fund. This effectively nullifies any additional disbursement "prerequisites," listed in the Memorandum of Understanding or elsewhere.

B. SECTION DIRECTORY:

Section 1: amends s. 723.06115, F.S., to specify the manner in which funds from the Florida Mobile Home Relocation Trust Fund are to be disbursed to the Florida Mobile Home Relocation Corporation.

Section 2: provides that the bill is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, nor reduce the percentage of sales tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Inspector General Audit Findings

On October 4, 2012, the Department's Office of Inspector General issued its audit findings regarding the business practices of the Florida Mobile Home Relocation Program.[8] The audit did not find any evidence of wrongdoing; however, it expressed concerns regarding inadequate segregation of duties, large cash balances that have amassed, and other internal control issues.

Additionally, the audit report made several recommendations to the Department. Such recommendations include:

- Amend the current Memorandum of Understanding to address the transfer of funds, submission of additional financial reporting, and periodic review of the Memorandum;
- Review and analyze the Corporation's financial information in order to enhance detective controls and to minimize the risks associated with inadequate segregation of duties; and
- Consider policy and operational changes so as to better align the Corporation's operations with current needs.[9]

Taking these audit findings into account, this bill likely does not improve the level of the Corporation's financial oversight. Specifically:

- On line 600, the bill provides that the Corporation, as it deems necessary, shall request the amount needed to make payments to mobile home owners under the relocation program. This effectively allows the Corporation to request program disbursements without providing documentation supporting the disbursement.
- The bill does not provide that the Corporation's distribution requests be approved by anyone within the Corporation.
- The bill does not otherwise provide any oversight by the Department of the Corporation's accounting practices, as it relates to calculating its operational costs and program disbursements. For example, no supporting documentation is required to be submitted with the operational budget request and/or claims disbursement request.
- The bill effectively nullifies the disbursement provisions of the Memorandum of Understanding. It may be helpful to also codify the remaining provisions of the Memorandum of Understanding, specifically the provisions relating to department monitoring/access to records, record retention, and report submission. Codifying some or all of these remaining provisions would work to decrease confusion, and increase clarity and oversight of the Corporation.

[8] See, generally: Department of Business and Professional Regulation Internal Audit Report A-1112-BPR-032, dated October 4, 2012, on file with the Business and Professional Regulation Subcommittee.

[9] Department of Business and Professional Regulation Internal Audit Report A-1112-BPR-032, page 5, dated October 4, 2012, on file with the Business and Professional Regulation Subcommittee.

Insufficient Funding and Timing of Funding

It is possible that the Trust Fund may not contain sufficient funding to meet the requests of the Corporation, making it impossible for the Department to comply with the procedure set forth in s. 723.06115(3), F.S. To remedy this potential issue, additional language could specify that distributions to the Corporation are subject to funds being available in the Trust Fund.

Moreover, the bill requires that the Corporation be paid its operational costs, in full, at the beginning of each fiscal year. It is unlikely that the Corporation will need its entire yearly operating budget to be disbursed at one time. As such, it would be prudent for the Department to disburse the Corporation's yearly operational costs in quarterly installments. This would leave the balance invested with the state Treasury until needed, providing increased oversight over the funds.

Two-Day Disbursement Requirement

The bill requires funds to be transferred to the Corporation within two business days of the Department's receipt of the written statement requesting payment. The disbursement of funds is ultimately handled by the Bureau of Finance and Accounting (Bureau) within the Department.

Specifically, the Department processes fund disbursements as follows:

1. Receipt of transfer request;
2. Review of transfer request;
3. Approval of transfer request;
4. Payment request transmitted to the Bureau; and
5. Disbursement to the Corporation.[10]

The Department has indicated that the disbursement process may take longer than two business days.[11] To remedy this potential time lag, it may be necessary to increase the two-day disbursement requirement.

FDIC Protection

The bill provides that funds transferred to the Corporation may be placed in a non-interest bearing checking account. The Federal Deposit Insurance Corporation (FDIC) provides coverage to protect depositors in FDIC-insured institutions. Specifically, the FDIC will guarantee up to $250,000 per ownership category, per institution.[12]

Thus, if the Corporation places disbursed funds in excess of $250,000 in one non-interest bearing checking account pursuant to the provisions created in the bill, only $250,000 of those funds would be federally guaranteed. Furthermore, the Department's recent internal audit report, as discussed above, indicated that the Corporation currently maintains several commercial bank accounts, the balance of which regularly exceeds the $250,000 FDIC insurance limit.[13]

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[10] Department of Business and Professional Regulation 2013 Legislative Analysis of SB 378 (similar), page 6, dated January 31, 2013, on file with the Business and Professional Regulation Subcommittee.
[11] Id.
[12] http://fdic.gov/deposit/deposits/dis/index.html, last visited on February 22, 2013.
[13] Department of Business and Professional Regulation Internal Audit Report A-1112-BPR-032, page 5, dated October 4, 2012, on file with the Business and Professional Regulation Subcommittee.