

1 A bill to be entitled
2 An act relating to community development; amending s.
3 159.603, F.S.; revising the definition of "qualifying
4 housing development"; amending s. 159.608, F.S.;
5 revising the power of a housing finance authority to
6 make loans directly to eligible persons; amending s.
7 420.507, F.S.; revising the powers of the Florida
8 Housing Finance Corporation; specifying how the
9 corporation will allocate certain funds; amending s.
10 420.5087, F.S.; revising provisions relating to state
11 apartment incentive loans to provide for a competitive
12 evaluation and selection process with respect to loan
13 applications; amending s. 420.511, F.S.; providing
14 that the corporation's strategic business plan must be
15 consistent with a long-range program plan relating to
16 affordable housing; deleting a requirement that the
17 corporation compile certain data; revising provisions
18 relating to the corporation's development of its long-
19 range plan; revising the required contents and
20 information to be included in the corporation's annual
21 report; requiring the corporation to submit separate
22 audited financial statements that include specified
23 information and incorporate certain reports; requiring
24 the Auditor General to conduct an operational audit of
25 the corporation and provide a written report to the
26 Legislature; amending ss. 420.0003, 420.0006, 420.504,
27 and 420.506, F.S.; conforming provisions to changes
28 made by this act; repealing s. 420.5091, F.S.,

29 relating to the federal Homeownership and Opportunity
 30 for People Everywhere (HOPE) program; providing an
 31 effective date.

32

33 Be It Enacted by the Legislature of the State of Florida:

34

35 Section 1. Subsection (6) of section 159.603, Florida
 36 Statutes, is amended to read:

37 159.603 Definitions.—As used in this part, the following
 38 words and terms have the following meanings unless the context
 39 indicates another or different meaning or intent.

40 (6) "Qualifying housing development" means any work or
 41 improvement located or to be located in this ~~the~~ state,
 42 including real property, buildings, and any other real and
 43 personal property, designed or intended for the primary purpose
 44 of providing decent, safe, and sanitary residential housing for
 45 four or more families, at least 60 percent of whom are eligible
 46 persons, whether new construction, the acquisition of existing
 47 residential housing, or the remodeling, improvement,
 48 rehabilitation, or reconstruction of existing housing, together
 49 with such related nonhousing facilities as the authority
 50 determines to be necessary, convenient, or desirable.

51 (a) The term includes a housing development that meets the
 52 definition of a "qualified low-income housing project" under s.
 53 42(g) of the Internal Revenue Code, regardless of whether such
 54 development meets the 60-percent eligible persons requirement
 55 under this subsection.

56 (b) The exception provided under paragraph (a) applies to

57 all housing developments meeting the federal definition for
58 "qualified low-income housing project" as well as all
59 developments that previously qualified under the state
60 definition for "qualifying housing development." Housing finance
61 authorities may enter into regulatory agreement amendments as
62 necessary to accommodate housing developments that qualify under
63 paragraph (a).

64 Section 2. Subsection (8) of section 159.608, Florida
65 Statutes, is amended to read:

66 159.608 Powers of housing finance authorities.—A housing
67 finance authority shall constitute a public body corporate and
68 politic, exercising the public and essential governmental
69 functions set forth in this act, and shall exercise its power to
70 borrow only for the purpose as provided herein:

71 (8) To make loans directly to eligible persons ~~or families~~
72 who otherwise cannot borrow from conventional lending sources
73 and ~~whose annual income does not exceed 80 percent of the median~~
74 ~~income based on a family of up to four persons for the county in~~
75 ~~which they seek to purchase a residence. The housing finance~~
76 ~~authority may adjust the annual income requirements for families~~
77 ~~of greater than four persons.~~ Such loans must be secured by
78 ~~either~~ first mortgages or subordinated mortgages and must be
79 used to purchase, construct, rehabilitate, or refinance single-
80 family residences that have purchase prices that do not exceed
81 the purchase price limits of; ~~however, the purchase price of any~~
82 ~~residence financed through such a loan may not exceed 90 percent~~
83 ~~of the median sales price for single-family homes in the county~~
84 where the borrower's residence is to be located, as mandated by

85 federal law for tax-exempt single-family bond programs.

86 Section 3. Paragraph (h) of subsection (22) and subsection
87 (48) of section 420.507, Florida Statutes, are amended to read:

88 420.507 Powers of the corporation.—The corporation shall
89 have all the powers necessary or convenient to carry out and
90 effectuate the purposes and provisions of this part, including
91 the following powers, l which are in addition to all other powers
92 granted by other provisions of this part:

93 (22) To develop and administer the State Apartment
94 Incentive Loan Program. In developing and administering that
95 program, the corporation may:

96 (h) Establish, by rule, the procedure for ~~evaluating,~~
97 ~~scoring,~~ and competitively evaluating and selecting ~~ranking~~ all
98 applications for funding based on the criteria set forth in s.
99 420.5087(6)(c) l, ~~†~~ determining actual loan amounts, l, ~~†~~ making and
100 servicing loans, l, ~~†~~ and exercising the powers authorized in this
101 subsection.

102 (48) To award ~~use up to 10 percent of~~ its annual
103 allocation of low-income housing tax credits, nontaxable revenue
104 bonds, and State Apartment Incentive Loan Program funds
105 appropriated by the Legislature and available to allocate by
106 request for proposals or other competitive solicitation. The
107 corporation shall reserve up to 5 percent of each allocation
108 ~~funding~~ for high-priority affordable housing projects, such as
109 housing to support economic development and job-creation
110 initiatives, housing for veterans and their families, and other
111 special needs populations in communities throughout the state as
112 determined by the corporation on an annual basis. The

113 corporation shall reserve an additional 5 percent of each
114 allocation for affordable housing projects that target persons
115 who have a disabling condition, as defined in s. 420.0004, and
116 their families. These allocations must prioritize projects or
117 initiatives piloting or demonstrating cost-effective best
118 practices that meet the housing needs and preferences of such
119 persons. Any tax credits or funds not allocated because of a
120 lack of eligible projects targeting persons who have a disabling
121 condition shall be distributed by the corporation for high-
122 priority housing projects.

123 Section 4. Paragraphs (c) and (f) of subsection (6) of
124 section 420.5087, Florida Statutes, are amended to read:

125 420.5087 State Apartment Incentive Loan Program.—There is
126 hereby created the State Apartment Incentive Loan Program for
127 the purpose of providing first, second, or other subordinated
128 mortgage loans or loan guarantees to sponsors, including for-
129 profit, nonprofit, and public entities, to provide housing
130 affordable to very-low-income persons.

131 (6) On all state apartment incentive loans, except loans
132 made to housing communities for the elderly to provide for
133 lifesafety, building preservation, health, sanitation, or
134 security-related repairs or improvements, the following
135 provisions shall apply:

136 (c) The corporation shall provide by rule for the
137 establishment of a review committee ~~composed of the department~~
138 ~~and corporation staff and shall establish by rule a scoring~~
139 ~~system~~ for the competitive evaluation and selection ~~competitive~~
140 ~~ranking~~ of applications submitted in this program, including,

141 but not limited to, the following criteria:

142 1. Tenant income and demographic targeting objectives of
143 the corporation.

144 2. Targeting objectives of the corporation which will
145 ensure an equitable distribution of loans between rural and
146 urban areas.

147 3. Sponsor's agreement to reserve the units for persons or
148 families who have incomes below 50 percent of the state or local
149 median income, whichever is higher, for a time period that
150 exceeds ~~to exceed~~ the minimum required by federal law or the
151 ~~provisions of~~ this part.

152 4. Sponsor's agreement to reserve more than:

153 a. Twenty percent of the units in the project for persons
154 or families who have incomes that do not exceed 50 percent of
155 the state or local median income, whichever is higher; or

156 b. Forty percent of the units in the project for persons
157 or families who have incomes that do not exceed 60 percent of
158 the state or local median income, whichever is higher, without
159 requiring a greater amount of the loans as provided in this
160 section.

161 5. Provision for tenant counseling.

162 6. Sponsor's agreement to accept rental assistance
163 certificates or vouchers as payment for rent.

164 7. Projects requiring the least amount of a state
165 apartment incentive loan compared to overall project cost,
166 except that the share of the loan attributable to units serving
167 extremely-low-income persons must ~~shall~~ be excluded from this
168 requirement.

- 169 8. Local government contributions and local government
 170 comprehensive planning and activities that promote affordable
 171 housing.
- 172 9. Project feasibility.
- 173 10. Economic viability of the project.
- 174 11. Commitment of first mortgage financing.
- 175 12. Sponsor's prior experience.
- 176 13. Sponsor's ability to proceed with construction.
- 177 14. Projects that directly implement or assist welfare-to-
 178 work transitioning.
- 179 15. Projects that reserve units for extremely-low-income
 180 persons.
- 181 16. Projects that include green building principles,
 182 storm-resistant construction, or other elements that reduce
 183 long-term costs relating to maintenance, utilities, or
 184 insurance.
- 185 17. Job-creation rate of the developer and general
 186 contractor, as provided in s. 420.507(47).
- 187 (f) The review committee established by corporation rule
 188 pursuant to this subsection shall make recommendations to the
 189 board of directors of the corporation regarding program
 190 participation under the State Apartment Incentive Loan Program.
 191 The corporation board shall make the final ~~ranking and the~~
 192 decisions regarding which applicants shall become program
 193 participants based on the scores received in the competitive
 194 process ~~ranking~~, further review of applications, and the
 195 recommendations of the review committee. The corporation board
 196 shall approve or reject applications for loans and shall

CS/HB 437

2013

197 determine the tentative loan amount available to each applicant
198 selected for participation in the program. The actual loan
199 amount shall be determined pursuant to rule adopted pursuant to
200 s. 420.507(22) (h).

201 Section 5. Section 420.511, Florida Statutes, is amended
202 to read:

203 420.511 Strategic business plan; long-range program
204 ~~strategie~~ plan; annual report; audited financial statements.—

205 (1) The corporation shall develop a strategic business
206 plan for the provision of affordable housing for the state. The
207 plan must be consistent ~~shall not be inconsistent~~ with the long-
208 range program ~~strategie~~ plan prepared pursuant to subsection (2)
209 and shall contain performance measures and specific performance
210 targets for the following:

211 (a) The ability of low-income and moderate-income
212 Floridians to access housing that is decent and affordable.

213 (b) The continued availability and affordability of
214 housing financed by the corporation to target populations.

215 (c) The availability of affordable financing programs,
216 including equity and debt products, and programs that reduce
217 gaps in conventional financing in order, to increase individual
218 access to housing and stimulate private production of affordable
219 housing.

220 (d) The establishment and maintenance of efficiencies in
221 the delivery of affordable housing.

222 (e) Such other measures as directed by the corporation's
223 board of directors.

224

CS/HB 437

2013

225 ~~The corporation shall also compile data on the stimulus of~~
226 ~~economic activity created by the affordable housing finance~~
227 ~~programs administered by the corporation.~~

228 (2) The corporation, in coordination ~~equal partnership~~
229 with the department, shall ~~develop~~ annually develop a long-range
230 program ~~strategie~~ plan for the provision of affordable housing
231 in this state as Florida ~~as part of the department's agency~~
232 ~~strategie plan~~ required pursuant to chapter 186. In part, the
233 plan must ~~shall~~ include provisions that maximize the abilities
234 of the corporation ~~and the department~~ to implement the state
235 housing strategy established under s. 420.0003, to respond to
236 federal housing initiatives, and to develop programs in a manner
237 that is more responsive to the needs of public and private
238 partners. The plan shall be developed on a schedule consistent
239 with that established by s. 186.021. For purposes of this
240 section ~~act~~, the executive director or his or her designee shall
241 serve as the corporation's representative to achieve a
242 coordinated and integrated planning relationship with the
243 department.

244 (3) ~~(a)~~ The corporation shall submit to the Governor and
245 the presiding officers of each house of the Legislature, within
246 6 ~~2~~ months after the end of its fiscal year, a complete and
247 detailed report setting forth the corporation's state and
248 federal program accomplishments using the most recent available
249 data. The report must include, but is not limited to:

250 (a) The following tenant characteristics in the existing
251 rental units financed through corporation-administered programs:

252 1. The number of households served, delineated by income,

253 | race, ethnicity, and age of the head of household.

254 | 2. The number of households served in large, medium, and

255 | small counties as described in s. 420.5087(1) and the extent to

256 | which geographic distribution has been achieved in accordance

257 | with s. 420.5087.

258 | 3. The number of farmworker and commercial fishing worker

259 | households served.

260 | 4. The number of homeless households served.

261 | 5. The number of special needs households served.

262 | 6. By county, the average rent charged based on unit size.

263 | (b) The number of rental units to which resources have

264 | been allocated in the last fiscal year, including income and

265 | demographic restrictions.

266 | (c) The estimated average cost of producing units under

267 | each rental or homeownership unit financed under each program in

268 | the last fiscal year.

269 | (d) By county, the average sales price of homeownership

270 | units financed in the last fiscal year.

271 | (e) The number of households served by homeownership

272 | programs in the last fiscal year, including the income, race,

273 | ethnicity, and age of the homeowner of each household.

274 | (f) The percentage of homeownership loans that are in

275 | foreclosure.

276 | (g) The percentage of properties in the corporation's

277 | rental portfolio which have an occupancy rate below 90 percent.

278 | (h) The amount of economic stimulus created by the

279 | affordable housing finance programs administered by the

280 | corporation for the most recent year available.

281 (i) For the State Apartment Incentive Loan Program (SAIL),
 282 a comprehensive list of all closed loans outstanding at the end
 283 of the most recent fiscal year, including, but not limited to,
 284 development name, city, county, developer, set-aside type, set-
 285 aside percentage, affordability term, total number of units,
 286 number of set-aside units, lien position, original loan amount,
 287 loan maturity date, loan balance at close of year, status of
 288 loan, rate of interest, and interest paid.

289 (j) For the Florida Affordable Housing Guarantee Program,
 290 a list of all guaranteed loans through the close of the most
 291 recent fiscal year, including, but not limited to, development
 292 name, city, county, developer, total number of units, issuer of
 293 the bonds, loan maturity date, participation in the United
 294 States Department of Housing and Urban Development Risk-Sharing
 295 Program, original guarantee amount, guarantee amount at the
 296 close of the fiscal year, status of guaranteed loans, and total
 297 outstanding Florida Housing Finance Corporation Affordable
 298 Housing Guarantee Program revenue bonds at the close of the most
 299 recent fiscal year.

300 (k) Any other information the corporation deems
 301 appropriate.

- 302 ~~1. Its operations and accomplishments;~~
- 303 ~~2. Its receipts and expenditures during its fiscal year in~~
 304 ~~accordance with the categories or classifications established by~~
 305 ~~the corporation for its operating and capital outlay purposes;~~
- 306 ~~3. Its assets and liabilities at the end of its fiscal~~
 307 ~~year and the status of reserve, special, or other funds;~~
- 308 ~~4. A schedule of its bonds outstanding at the end of its~~

309 ~~fiscal year, together with a statement of the principal amounts~~
310 ~~of bonds issued and redeemed during the fiscal year; and~~
311 ~~5. Information relating to the corporation's activities in~~
312 ~~implementing the provisions of ss. 420.5087, 420.5088, and~~
313 ~~420.5095.~~
314 ~~(b) The report shall include, but not be limited to:~~
315 ~~1. The number of people served, delineated by income, age,~~
316 ~~family size, and racial characteristics.~~
317 ~~2. The number of units produced under each program.~~
318 ~~3. The average cost of producing units under each program.~~
319 ~~4. The average sales price of single-family units financed~~
320 ~~under s. 420.5088.~~
321 ~~5. The average amount of rent charged based on unit size~~
322 ~~on units financed under s. 420.5087.~~
323 ~~6. The number of persons in rural communities served under~~
324 ~~each program.~~
325 ~~7. The number of farmworkers served under each program.~~
326 ~~8. The number of homeless persons served under each~~
327 ~~program.~~
328 ~~9. The number of elderly persons served under each~~
329 ~~program.~~
330 ~~10. The extent to which geographic distribution has been~~
331 ~~achieved in accordance with the provisions of s. 420.5087.~~
332 ~~11. The success of the Community Workforce Housing~~
333 ~~Innovation Pilot Program in meeting the housing needs of~~
334 ~~eligible areas.~~
335 ~~12. Any other information the corporation deems~~
336 ~~appropriate.~~

CS/HB 437

2013

337 (4) Within 6 months after the end of its fiscal year, the
338 corporation shall submit audited financial statements, prepared
339 in accordance with generally accepted accounting principles,
340 which include all assets, liabilities, revenues, and expenses of
341 the corporation, and a list of all bonds outstanding at the end
342 of its fiscal year. ~~The with the annual report required by this~~
343 ~~section, a copy of an annual financial audit of its accounts and~~
344 ~~records and an annual compliance audit must be of its programs~~
345 conducted by an independent certified public accountant,
346 performed in accordance with generally accepted auditing
347 standards and government auditing standards, and incorporate all
348 reports, including compliance reports, as required by such
349 auditing standards.

350 (5) The Auditor General shall conduct an operational audit
351 of the accounts and records of the corporation and provide a
352 written report on the audit to the President of the Senate and
353 the Speaker of the House of Representatives by December 1, 2016.
354 Both the corporation's business plan and annual report must
355 ~~shall~~ recognize the different fiscal periods under which the
356 corporation, the state, the Federal Government, and local
357 governments operate.

358 Section 6. Paragraph (b) of subsection (4) of section
359 420.0003, Florida Statutes, is amended to read:

360 420.0003 State housing strategy.—

361 (4) IMPLEMENTATION.—The Department of Economic Opportunity
362 and the Florida Housing Finance Corporation in carrying out the
363 strategy articulated herein shall have the following duties:

364 (b) The long-range program ~~agency strategie~~ plan of the

365 Department of Economic Opportunity must ~~shall~~ include specific
 366 goals, objectives, and strategies that implement the housing
 367 policies in this section ~~and shall include the strategic plan~~
 368 ~~for housing production prepared by the corporation pursuant to~~
 369 ~~s. 420.511.~~

370 Section 7. Section 420.0006, Florida Statutes, is amended
 371 to read:

372 420.0006 Authority to contract with corporation; contract
 373 requirements; nonperformance.—The executive director of the
 374 department shall contract, notwithstanding part I of chapter
 375 287, with the Florida Housing Finance Corporation on a multiyear
 376 basis to stimulate, provide, and foster affordable housing in
 377 the state. The contract must incorporate the performance
 378 measures required by s. 420.511 and ~~must~~ be consistent with ~~the~~
 379 ~~provisions of~~ the corporation's business plan prepared
 380 in accordance with s. 420.511. The contract must provide that
 381 ~~if, in the event~~ the corporation fails to comply with ~~any of the~~
 382 a performance measure ~~measures~~ required by s. 420.511, the
 383 executive director shall notify the Governor and ~~shall~~ refer the
 384 nonperformance to the department's inspector general for review
 385 and determination as to whether such failure is due to forces
 386 beyond the corporation's control or whether such failure is due
 387 to inadequate management of the corporation's resources.
 388 Advances shall continue to be made pursuant to s. 420.0005
 389 during the pendency of the review ~~by the department's inspector~~
 390 ~~general~~. If such failure is due to outside forces, it may ~~shall~~
 391 not be deemed a violation of the contract. If such failure is
 392 due to inadequate management, the department's inspector general

393 shall provide recommendations regarding solutions. The Governor
394 may ~~is authorized to~~ resolve any differences of opinion with
395 respect to performance under the contract and may request that
396 advances continue in the event of a failure under the contract
397 due to inadequate management. The Chief Financial Officer shall
398 approve the request absent a finding by the Chief Financial
399 Officer that continuing such advances would adversely impact the
400 state; however, ~~in any event~~ the Chief Financial Officer shall
401 provide advances sufficient to meet the debt service
402 requirements of the corporation and sufficient to fund contracts
403 committing funds from the State Housing Trust Fund if so long as
404 such contracts are in accordance with the laws of this state.

405 Section 8. Subsection (1) of section 420.504, Florida
406 Statutes, is amended to read:

407 420.504 Public corporation; creation, membership, terms,
408 expenses.—

409 (1) ~~There is created within the Department of Economic~~
410 ~~Opportunity~~ A public corporation and a public body corporate and
411 politic, to be known as the "Florida Housing Finance
412 Corporation" is created within the Department of Economic
413 Opportunity." It is declared to be the intent of and
414 constitutional construction by the Legislature that the Florida
415 Housing Finance Corporation constitutes an entrepreneurial
416 public corporation organized to provide and promote the public
417 welfare by administering the governmental function of financing
418 or refinancing housing and related facilities in this state
419 ~~Florida~~ and that the corporation is not a department of the
420 executive branch of state government within the scope and

421 meaning of s. 6, Art. IV of the State Constitution, but is
422 functionally related to the Department of Economic Opportunity
423 in which it is placed. The executive function of state
424 government to be performed by the executive director of the
425 Department of Economic Opportunity in the conduct of the
426 business of the Florida Housing Finance Corporation must be
427 performed pursuant to a contract to monitor and set performance
428 standards for the implementation of the business plan for the
429 provision of housing approved for the corporation as provided in
430 s. 420.0006. This contract must ~~shall~~ include ~~the~~ performance
431 standards for the provision of affordable housing in this state
432 ~~Florida~~ established in the strategic business plan described in
433 s. 420.511.

434 Section 9. Subsection (1) of section 420.506, Florida
435 Statutes, is amended to read:

436 420.506 Executive director; agents and employees;
437 inspector general.—

438 (1) The appointment and removal of an executive director
439 shall be by the executive director of the Department of Economic
440 Opportunity, with the advice and consent of the corporation's
441 board of directors. The executive director shall employ legal
442 and technical experts and such other agents and employees,
443 permanent and temporary, as the corporation may require, and
444 shall communicate with and provide information to the
445 Legislature with respect to the corporation's activities. ~~The~~
446 ~~board is authorized,~~ Notwithstanding ~~the provisions of~~ s.
447 216.262, the board may ~~to~~ develop and implement rules regarding
448 the employment of employees of the corporation and service

CS/HB 437

2013

449 providers, including legal counsel. The board ~~of directors of~~
450 ~~the corporation~~ is entitled to establish travel procedures and
451 guidelines for employees of the corporation, subject to s.
452 112.061(6) and (7). The executive director's office and the
453 corporation's files and records must be located in Leon County.

454 Section 10. Section 420.5091, Florida Statutes, is
455 repealed.

456 Section 11. This act shall take effect July 1, 2013.