LEGISLATIVE ACTION Senate House Comm: RCS 02/21/2018

Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Perry) recommended the following:

Senate Amendment (with title amendment)

3 Delete everything after the enacting clause 4 and insert:

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Section 1. Subsection (1) of section 125.379, Florida Statutes, is amended to read:

125.379 Disposition of county property for affordable housing.-

(1) Beginning July 1, 2018 By July 1, 2007, and every 3 years thereafter, each county shall prepare an inventory list of

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all real property within its jurisdiction to which the county holds fee simple title that is appropriate for use as affordable housing. The real property must be evaluated on criteria that include environmental suitability for construction, site characteristics, current land use designation, current or anticipated zoning, inclusion in at least one special district, existing infrastructure, proximity to employment opportunities, proximity to public transportation, and proximity to existing services. The inventory list must include the address and legal description of each such real property and specify whether the property is vacant or improved. The governing body of the county must review the inventory list at a public hearing and may revise it at the conclusion of the public hearing. The governing body of the county shall adopt a resolution that includes an inventory list of such property following the public hearing.

Section 2. Subsection (1) of section 166.0451, Florida Statutes, is amended to read:

166.0451 Disposition of municipal property for affordable housing.-

(1) Beginning July 1, 2018 By July 1, 2007, and every 3 years thereafter, each municipality shall prepare an inventory list of all real property within its jurisdiction to which the municipality holds fee simple title that is appropriate for use as affordable housing. Such real property shall be evaluated on criteria that include the environmental suitability for construction, site characteristics, currently designated land use, current or anticipated zoning, inclusion in one or more special districts, existing infrastructure, proximity to employment opportunities, proximity to public transportation,

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and proximity to existing services. The inventory list must include the address and legal description of each such property and specify whether the property is vacant or improved. The governing body of the municipality must review the inventory list at a public hearing and may revise it at the conclusion of the public hearing. Following the public hearing, the governing body of the municipality shall adopt a resolution that includes an inventory list of such property.

Section 3. Subsections (4) and (7) of section 253.0341, Florida Statutes, are amended to read:

253.0341 Surplus of state-owned lands.-

- (4) Beginning July 1, 2018, and continuing every 3 years thereafter At least every 10 years, as a component of each land management plan or land use plan and in a form and manner adopted by rule of the board of trustees, each manager shall evaluate and indicate to the board of trustees those lands that are not being used for the purpose for which they were originally leased. For conservation lands, the Acquisition and Restoration Council shall review and recommend to the board of trustees whether such lands should be retained in public ownership or disposed of by the board of trustees. For nonconservation lands, the Division of State Lands shall review and recommend to the board of trustees whether such lands should be retained in public ownership or disposed of by the board of trustees.
- (7)(a) The board of trustees must first offer nonconservation surplus lands to the county and municipality where the land is located for use as affordable housing as identified by the Florida Housing Finance Corporation pursuant

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to s. 420.56. All surplus buildings or land not needed for affordable housing Before a building or parcel of land is offered for lease or sale to a local or federal unit of government or a private party, it shall first be offered for lease to state agencies, state universities, and Florida College System institutions, with priority consideration given to state universities and Florida College System institutions. If the surplus building or land is not used for affordable housing or leased by a state agency, state university, or Florida College System institution, then the board of trustees shall offer the building or parcel for lease or sale to a local or federal unit of government or a private party.

(b) Within 60 days after the offer for lease of a surplus building or parcel, a state university or Florida College System institution that requests the lease must submit a plan for review and approval by the Board of Trustees of the Internal Improvement Trust Fund regarding the intended use, including future use, of the building or parcel of land before approval of a lease. Within 60 days after the offer for lease of a surplus building or parcel, a state agency that requests the lease of such facility or parcel must submit a plan for review and approval by the board of trustees regarding the intended use. The state agency plan must, at a minimum, include the proposed use of the facility or parcel, the estimated cost of renovation, a capital improvement plan for the building, evidence that the building or parcel meets an existing need that cannot otherwise be met, and other criteria developed by rule by the board of trustees. The board or its designee shall compare the estimated value of the building or parcel to any submitted business plan

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to determine if the lease or sale is in the best interest of the state. The board of trustees shall adopt rules pursuant to chapter 120 for the implementation of this section.

Section 4. Subsection (3) is amended, and subsection (12) is added to section 337.25, Florida Statutes, to read:

337.25 Acquisition, lease, and disposal of real and personal property.-

- (3) Beginning July 1, 2018, the department shall evaluate all of its land not within a transportation corridor or within the right-of-way of a transportation facility at least every 10 years on a rotating basis to determine whether the property should be retained. The inventory of real property that was acquired by the state after December 31, 1988, that has been owned by the state for 10 or more years, and that is not within a transportation corridor or within the right-of-way of a transportation facility shall be evaluated to determine the necessity for retaining the property. If the property is not needed for the construction, operation, and maintenance of a transportation facility or is not located within a transportation corridor, the department may dispose of the property pursuant to subsection (4).
- (12) Except in a conveyance transacted under paragraphs (4) (a), (c), and (e), the department <u>must first offer parcels of</u> nonconservation surplus land to the county and municipality where the land is located for use as affordable housing as identified by the Florida Housing Finance Corporation pursuant to s. 420.56.

Section 5. Subsection (1) is amended, and subsection (9) is added to section 373.089, Florida Statutes, to read:

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373.089 Sale or exchange of lands, or interests or rights in lands.—The governing board of the district may sell lands, or interests or rights in lands, to which the district has acquired title or to which it may hereafter acquire title in the following manner:

- (1) Beginning on July 1, 2018, the district shall review all lands and interests or rights in lands every 10 years on a rotating basis to determine whether the lands are still needed for the purpose for which they were acquired. Any lands, or interests or rights in lands, determined by the governing board to be surplus may be sold by the district, at any time, for the highest price obtainable; however, in no case shall the selling price be less than the appraised value of the lands, or interests or rights in lands, as determined by a certified appraisal obtained within 360 days before the effective date of a contract for sale.
- (9) The governing board must first offer nonconservation surplus lands to the county and municipality where the land is located for use as affordable housing as identified by the Florida Housing Finance Corporation pursuant to s. 420.56. Districts must only offer nonconservation surplus lands originally acquired using state funds.

If the Board of Trustees of the Internal Improvement Trust Fund declines to accept title to the lands offered under this section, the land may be disposed of by the district under the provisions of this section.

Section 6. Subsections (35) and (46) of section 420.507, Florida Statutes, are amended to read:

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

- (35) (a) Upon a determination of good cause and after service of an administrative complaint and adequate notice, to take one or more of the following actions against any applicant or affiliate of an applicant:
- 1. Preclude such applicant or affiliate from applying for funding from any corporation program for a specified period;
- 2. Revoke any funding previously awarded by the corporation for any development for which construction or rehabilitation has not commenced; and
- 3. Suspend any funding, credit underwriting procedures, or application review for any development for which construction or rehabilitation has not commenced from the time an administrative complaint is filed until a final order is issued in regard to that complaint.
- (b) For purposes of this subsection, the term "good cause" means that the applicant or affiliate of an applicant:
- 1. Has made a material misrepresentation or engaged in fraudulent actions in connection with any application for a corporation program;
- 2. Has been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the financing, construction, or management of affordable housing or the fraudulent procurement of state or federal funds. The record

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of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt;

- 3. Has been excluded from federal or state procurement programs for any reason; or
- 4. Has offered or given consideration with respect to a local contribution in violation of corporation rules To preclude from further participation in any of the corporation's programs, any applicant or affiliate of an applicant which has made a material misrepresentation or engaged in fraudulent actions in connection with any application for a corporation program.
- (46) To require, as a condition of financing a multifamily rental project, including allocating competitive low-income housing tax credits, that an agreement be recorded in the official records of the county where the real property is located, which requires that the project be used for housing defined as affordable in s. 420.0004(3) by persons defined in s. 420.0004(9), (11), (12), and (17). The term of such agreement does not extend beyond that period of time required by 26 U.S.C. 42(h)(6)(D)(ii)(II), unless the corporation affirms at the time of the initial credit underwriting that the project will remain economically feasible beyond such period. Such an agreement is a state land use regulation that limits the highest and best use of the property within the meaning of s. 193.011(2).

Section 7. Paragraph (c) of subsection (6) of section 420.5087, Florida Statutes, is amended to read:

420.5087 State Apartment Incentive Loan Program.—There is hereby created the State Apartment Incentive Loan Program for the purpose of providing first, second, or other subordinated

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mortgage loans or loan guarantees to sponsors, including forprofit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.

- (6) On all state apartment incentive loans, except loans made to housing communities for the elderly to provide for lifesafety, building preservation, health, sanitation, or security-related repairs or improvements, the following provisions shall apply:
- (c) The corporation shall provide by rule for the establishment of a review committee for the competitive evaluation and selection of applications submitted in this program, including, but not limited to, the following criteria:
- 1. Tenant income and demographic targeting objectives of the corporation.
- 2. Targeting objectives of the corporation which will ensure an equitable distribution of loans between rural and urban areas.
- 3. Sponsor's agreement to reserve the units for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, for a time period that exceeds the minimum required by federal law or this part.
 - 4. Sponsor's agreement to reserve more than:
- a. Twenty percent of the units in the project for persons or families who have incomes that do not exceed 50 percent of the state or local median income, whichever is higher; or
- b. Forty percent of the units in the project for persons or families who have incomes that do not exceed 60 percent of the state or local median income, whichever is higher, without requiring a greater amount of the loans as provided in this



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- 5. Provision for tenant counseling.
- 6. Sponsor's agreement to accept rental assistance certificates or vouchers as payment for rent.
- 7. Projects requiring the least amount of a state apartment incentive loan compared to overall project cost, except that the share of the loan attributable to units serving extremely-lowincome persons must be excluded from this requirement.
- 8. Local government contributions and local government comprehensive planning and activities that promote affordable housing, policies that promote access to public transportation, reduce the need for onsite parking, and expedite permits for affordable housing projects as provided in s. 553.7923.
 - 9. Project feasibility.
 - 10. Economic viability of the project.
 - 11. Commitment of first mortgage financing.
 - 12. Sponsor's prior experience.
 - 13. Sponsor's ability to proceed with construction.
- 14. Projects that directly implement or assist welfare-towork transitioning.
- 15. Projects that reserve units for extremely-low-income persons.
- 16. Projects that include green building principles, stormresistant construction, or other elements that reduce long-term costs relating to maintenance, utilities, or insurance.
- 17. Job-creation rate of the developer and general contractor, as provided in s. 420.507(47).
- 270 Section 8. Section 420.56, Florida Statutes, is created to 271 read:

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420.56 Disposal of surplus lands for use as affordable housing.-

- (1) It is intent of the Legislature to make all surplus lands designated as nonconservation available for affordable housing before making the parcels available for purchase by other governmental entities or the public.
- (2) The Department of Environmental Protection acting on the behalf of the Board of Trustees of the Internal Improvement Trust Fund, the Department of Transportation, and each water management district shall notify the corporation when nonconservation land becomes available for surplus as part of the entity's regular review of lands under the provisions of s. 253.0341, s. 337.25, or s. 373.089 before making the parcel available for any other use, including for purchase by other governmental entities or the public. Water management districts must only identify nonconservation surplus lands originally acquired using state funds.
- (3) In consultation with the Department of Environmental Protection, the Department of Transportation, and the water management districts, the corporation must evaluate whether these surplus lands are suitable for affordable housing based on the property's environmental suitability for construction; current and anticipated land use and zoning; inclusion in one or more special districts; existing infrastructure on the land, such as roads, water, sewer, and electricity; access to grocery stores within walking distance or by public transportation; access to employment opportunities within walking distance or by public transportation; access to public transportation within one half mile; and access to community services, such as public

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libraries, food kitchens, and employment centers.

- (4) If the corporation determines that the nonconservation surplus land is suitable for affordable housing, the entity seeking to dispose of the parcel must first offer the land to the county and municipality where the land is located, to be used for affordable housing, before the entity offers the land to other governmental entities or the public. If the county and municipality where the parcel is located do not wish to use the parcel for affordable housing, the entity may dispose of the parcel as otherwise provided by law or herein.
- (5) The Board of Trustees of the Internal Improvement Trust Fund, the Department of Transportation, and the water management districts may sell the parcels identified by the corporation for affordable housing for less than the appraised value to any party so long as the agency places an encumbrance on the parcels to ensure the purchaser uses the land for affordable housing for a period of not less than 99 years.
- (6) (a) The Board of Trustees of the Internal Improvement Trust Fund, the Department of Transportation, and the water management districts are exempt from the disposal procedures of ss. 253.0341(8) and (9), 337.25(4) and (7), 373.089(1), (2), (3), and (8) when disposing of nonconservation surplus lands under this section.
- (b) The sale price of land parcels disposed of pursuant to this section shall be determined by the entity disposing of the parcels. The Department of Transportation, the Board of Trustees of the Internal Improvement Trust Fund, and the water management districts must consider at least one appraisal of the property or, if the estimated value of the land is \$500,000 or less, a



330 comparable sales analysis or a broker's opinion of value. Section 9. Section 420.57, Florida Statutes, is created to 331 332 read: 333 420.57 Hurricane recovery programs. 334 (1) The Hurricane Housing Recovery Program is created to 335 provide funds to local governments for affordable housing 336 recovery efforts, similar to the State Housing Initiatives 337 Partnership Program as set forth in ss. 420.907-420.9079. 338 Subject to a specific appropriation as authorized by the General 339 Appropriations Act, the Florida Housing Finance Corporation 340 shall administer the program. Notwithstanding ss. 420.9072 and 341 420.9073, the Florida Housing Finance Corporation shall allocate 342 resources to local governments according to a need-based formula 343 that reflects housing damage estimates and population impacts 344 resulting from hurricanes. Eligible local governments must 345 submit a strategy outlining proposed recovery actions, household 346 income levels and number of residential units to be served, and funding requests. Program funds shall be used to serve 347 348 households with incomes up to 120 percent of area median income, 349 except that at least 30 percent of program funds should be 350 reserved for households with incomes up to 50 percent of area 351 median income and an additional 30 percent of program funds 352 should be reserved for households with incomes up to 80 percent 353 of area median income. Program funds shall be used as follows: 354 (a) At least 65 percent of funds shall be used for 355 homeownership. 356 (b) Up to 15 percent of the funds may be used for 357 administrative expenses to ensure expeditious use of funds. 358 (c) Up to one-quarter of 1 percent may be used by the



President of the Senate and the Speaker of the House of

Florida Housing Finance Corporation for compliance monitoring. (2) Each participating local government shall submit to the Florida Housing Finance Corporation an annual report of its use of funds from the Hurricane Housing Recovery Program. The corporation shall compile the reports and submit them to the

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- (3) The Rental Recovery Loan Program is created to provide funds to build additional rental housing due to impacts to the affordable housing stock and changes to the population resulting from hurricanes. The program is intended to allow the state to leverage additional federal rental financing similar to the State Apartment Incentive Loan Program as described in s. 420.5087 and is subject to a specific appropriation in the General Appropriations Act.
- (4) The Florida Housing Finance Corporation may adopt rules to administer this section.

Section 10. The Florida Housing Finance Corporation may adopt emergency rules pursuant to s. 120.54, Florida Statutes, to implement s. 420.57, Florida Statutes. The Legislature finds that emergency rules adopted to implement this section meet the health, safety, and welfare requirements of s. 120.54(4), Florida Statutes. The Legislature also finds that such emergency rulemaking is necessary to preserve the rights and welfare of the people and to provide additional funds to assist those areas of the state that sustained impacts to available affordable housing stock due to recent hurricanes. Therefore, in adopting such emergency rules, the corporation is not required to make the findings required by s. 120.54(4)(a), Florida Statutes.

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Emergency rules adopted under this section are exempt from s. 120.54(4)(c), Florida Statutes. The emergency rules shall remain in effect for 6 months after adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules. Section 11. Subsection (16) of section 420.9071, Florida Statutes, is amended to read: 420.9071 Definitions.—As used in ss. 420.907-420.9079, the term: (16) "Local housing incentive strategies" means local regulatory reform or incentive programs to encourage or facilitate affordable housing production, which include, at a minimum, expediting development permits as defined in s. 163.3164(16), construction permits, and certificates of occupancy for affordable housing projects as provided in s. 553.7923 assurance that permits for affordable housing projects are expedited to a greater degree than other projects, as provided in s. 163.3177(6)(f)3.; an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption; and a schedule for implementing the incentive strategies. Local housing incentive strategies may also include other regulatory reforms, such as those enumerated in s. 420.9076 or those recommended by the affordable housing advisory committee in its triennial evaluation of the implementation of affordable housing incentives, and adopted by the local governing body. Section 12. Section 553.7923, Florida Statutes, is created to read:

553.7923 Local Permit Approval Process for Affordable



Housing.-

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- (1) A local government has 15 days after the date it receives an application for a development permit, construction permit, or certificate of occupancy for affordable housing to examine the application and notify the applicant of any apparent errors or omissions and request any additional information the local government is permitted by law to require.
- (2) If a local government does not request additional information within the required time, the local government may not deny a development permit, construction permit, or certificate of occupancy for affordable housing if the applicant has failed to correct an error or omission or to supply additional information.
- (3) The local government may require any additional requested information to be submitted no later than 10 days after the date of the notice specified in subsection (1).
- (4) For good cause shown, the local government shall grant a request for an extension of time for submitting the additional information.
- (5) An application is complete upon receipt of all requested information and the correction of any error or omission for which the applicant was timely notified or when the time for notification has expired.
- (6) The local government must approve or deny an application for a development permit, construction permit, or certificate of occupancy for affordable housing within 60 days after receipt of a completed application unless a shorter period of time for local government action is provided by law.
 - (7) If the local government does not approve or deny an

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application for a development permit, construction permit, or certificate of occupancy for affordable housing within the 60day or shorter period, the permit is considered approved and the local government must issue the development permit, construction permit, or certificate of occupancy and may include such reasonable conditions as authorized by law. (8) An applicant for a development permit, construction permit, or certificate of occupancy seeking to receive a permit by default under this section must notify the local government in writing of the intent to rely upon the default approval provision of this section but may not take any action based upon the default development permit, construction permit, or certificate of occupancy until the applicant receives notification or a receipt that the local government received the notice. The applicant must retain the notification or receipt. Section 13. This act shall take effect July 1, 2018. ======== T I T L E A M E N D M E N T ========= And the title is amended as follows: Delete everything before the enacting clause and insert: A bill to be entitled An act relating to affordable housing; amending ss. 125.379 and 166.0451, F.S.; revising the criteria that counties and municipalities must use when evaluating real property as part of their inventory for disposal of lands; amending ss. 253.0341, 337.25, and 373.089,

F.S.; revising the procedures under which the Board of

Trustees of the Internal Improvement Trust Fund, the

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Department of Transportation, and the water management districts must dispose of nonconservation surplus lands; amending s. 420.507, F.S.; authorizing the Florida Housing Finance Corporation to take one or more specified actions against any applicant or affiliate of an applicant upon a determination of good cause and after service of an administrative complaint and adequate notice; defining the term "good cause"; authorizing the corporation to require, as a condition of financing a multifamily rental project, including allocating competitive low-income housing tax credits, that a certain agreement be recorded in the official records of the county where the real property is located; providing requirements for the term of such agreement; amending s. 420.5087, F.S.; revising the criteria used by a review committee when evaluating and selecting specified applications for the state apartment incentive loans; creating s. 420.56, F.S.; providing legislative intent; providing a process for certain entities to dispose of surplus lands for use as affordable housing; creating s. 420.57, F.S.; creating the Hurricane Housing Recovery Program to provide funds for certain affordable housing recovery efforts; requiring the corporation to administer the program and allocate resources to local governments that meet certain criteria; specifying requirements for receiving and using funds; requiring participating local governments to submit a report; requiring the corporation to compile the reports and submit them to

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the Legislature; creating the Rental Recovery Loan Program to provide funds for additional rental housing due to specified impacts; providing a rationale for the program; authorizing the corporation to adopt rules to administer specified provisions; authorizing the corporation to adopt emergency rules; providing legislative findings; providing that the corporation is not required to make specified findings; providing an exemption; requiring the emergency rules to remain in effect for a specified period after adoption; authorizing the emergency rules to be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules; amending s. 420.9071, F.S.; revising the definition of the term "local housing incentive strategies"; creating s. 553.7923, F.S.; providing a local permit approval process for affordable housing; providing an effective date.