

By Senator Meadows

30-687-98

See HB 3281

1 A bill to be entitled
 2 An act relating to the Florida Housing Finance
 3 Corporation; amending s. 420.5099, F.S.;
 4 requiring that the corporation allocate a
 5 portion of low-income housing tax credits under
 6 the Internal Revenue Code to projects involving
 7 qualified nonprofit organizations; providing
 8 responsibilities of such organizations;
 9 defining such organizations; providing
 10 applicability to certain previously approved
 11 projects and requiring compliance; providing a
 12 retroactive effective date.

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

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 16 Section 1. Section 420.5099, Florida Statutes, is
 17 amended to read:

18 420.5099 Allocation of the low-income housing tax
 19 credit.--

20 (1) The Florida Housing Finance Corporation is
 21 designated the housing credit agency for the state within the
 22 meaning of s. 42(h)(7)(A) of the Internal Revenue Code of 1986
 23 and shall have the responsibility and authority to establish
 24 procedures necessary for proper allocation and distribution of
 25 low-income housing tax credits and shall exercise all powers
 26 necessary to administer the allocation of such credits.

27 (2)(a) Subject to the provisions of paragraph (b), the
 28 corporation shall adopt allocation procedures that will ensure
 29 the maximum use of available tax credits in order to encourage
 30 development of low-income housing in the state, taking into
 31 consideration the timeliness of the application, the location

1 of the proposed housing project, the relative need in the area
2 for low-income housing and the availability of such housing,
3 the economic feasibility of the project, and the ability of
4 the applicant to proceed to completion of the project in the
5 calendar year for which the credit is sought.

6 (b) With respect to set-aside programs for low-income
7 housing projects, the corporation, in carrying out its
8 responsibilities and obligations under s. 42 of the Internal
9 Revenue Code, shall allocate at least 10 percent of the
10 allocation authority for any calendar year to projects
11 involving qualified nonprofit organizations. Once an
12 application is submitted by a nonprofit organization to the
13 corporation to qualify under the set-aside program, the
14 project must meet all requirements of s. 42(h)(5) of the
15 Internal Revenue Code and this paragraph, regardless of
16 whether more than 10 percent of the state's annual credits are
17 allocated to set-aside projects, through the entire applicable
18 compliance period, as defined in s. 42(i)(1) of the Internal
19 Revenue Code. A "qualified nonprofit organization" means any
20 nonprofit organization that:

21 1. Is described in s. 501(c)(3) or (4) of the Internal
22 Revenue Code;

23 2. The corporation determines, prior to the allocation
24 of tax credits and at all times thereafter during the
25 compliance period, not to be affiliated with or controlled by
26 a for-profit organization;

27 3. Owns an interest in the project, directly or
28 indirectly, and materially participates in the development and
29 operation of the project throughout the compliance period; and

30 4. Has as one of its exempt purposes the fostering of
31 low-income housing.

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2 For purposes of this paragraph, control by a for-profit
3 organization is present if the nonprofit organization
4 guarantees any form of economic or financial benefit to a
5 for-profit investor; guarantees the return of a for-profit
6 investor's capital contribution to the partnership or venture
7 or is otherwise required to fund operating deficits; or can be
8 removed as a general partner from the partnership or venture
9 in the absence of fraud or gross negligence.

10 (3) The corporation may request such information from
11 applicants as will enable it to make the allocations according
12 to the guidelines set forth in subsection (2), including, but
13 not limited to, the information required to be provided the
14 corporation by chapter 9I-21, Florida Administrative Code.

15 (4) The executive director of the corporation shall
16 administer the allocation procedures and determine allocations
17 on behalf of the corporation. Any applicant disputing the
18 amount of an allocation or the denial of a request for an
19 allocation may request an appeal to the board of directors of
20 the corporation.

21 (5) For purposes of implementing this program in
22 Florida and in assessing the property for ad valorem taxation
23 under s. 193.011, neither the tax credits, nor financing
24 generated by tax credits, shall be considered as income to the
25 property, and the rental income from rent restricted units in
26 a low-income tax credit development shall be recognized by the
27 property appraiser.

28 (6) The corporation is authorized to expend fees
29 received in conjunction with the allocation of low-income
30 housing tax credits only for the purpose of administration of
31 the program, including private legal services which relate to

1 interpretation of s. 42 of the Internal Revenue Code of 1986,
2 as amended.

3 Section 2. This act applies to all low-income housing
4 projects approved for the low-income housing tax credit on or
5 after the date this act becomes a law, and to all previously
6 approved low-income housing projects that are within the
7 applicable compliance period, as defined by section 42(i)(1)
8 of the Internal Revenue Code, on or after January 1, 1997.
9 Any partnership or venture participating in such a previously
10 approved project with a qualified nonprofit organization under
11 a governing agreement that does not conform to this act must
12 amend or revise its governing agreement to conform to this act
13 by December 31, 1998, or the project will become ineligible
14 for the low-income housing tax credit.

15 Section 3. This act shall take effect upon becoming a
16 law and shall apply retroactively to January 1, 1997.

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HOUSE SUMMARY

Requires that the Florida Housing Finance Corporation allocate at least 10 percent of low-income housing tax credits annually under the Internal Revenue Code to projects involving qualified nonprofit organizations, and defines such organizations. Provides for retroactive application to certain previously approved projects.