

By Representative Gay

1                                   A bill to be entitled  
2           An act relating to housing; creating s.  
3           196.1978, F.S.; providing that property used to  
4           provide housing for low-income and  
5           very-low-income persons under ch. 420, F.S.,  
6           and owned by certain nonprofit corporations, is  
7           exempt from ad valorem taxation; providing for  
8           retroactive application; creating ss. 220.185  
9           and 420.5093, F.S.; creating the State Housing  
10          Tax Credit Program; providing legislative  
11          findings and policy; providing definitions;  
12          providing for a credit against the corporate  
13          income tax in an amount equal to a percentage  
14          of the eligible basis of certain housing  
15          projects; providing a limitation; providing for  
16          allocation of credits and administration by the  
17          Florida Housing Finance Corporation; providing  
18          for an annual plan; providing application  
19          procedures; providing that neither tax credits  
20          nor financing generated thereby shall be  
21          considered income for ad valorem tax purposes;  
22          providing for recognition of certain income by  
23          the property appraiser; amending s. 420.503,  
24          F.S.; providing that certain projects shall  
25          qualify as housing for the elderly for purposes  
26          of certain loans under the State Apartment  
27          Incentive Loan Program, and shall qualify as a  
28          project targeted for the elderly in connection  
29          with allocation of low-income housing tax  
30          credits and with the HOME program under certain  
31          conditions; amending s. 420.5087, F.S.;

1 directing the Florida Housing Finance  
2 Corporation to adopt rules for the equitable  
3 distribution of certain unallocated funds under  
4 the State Apartment Incentive Loan Program;  
5 providing effective dates.  
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7 Be It Enacted by the Legislature of the State of Florida:  
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9 Section 1. (1) Section 196.1978, Florida Statutes, is  
10 created to read:

11 196.1978 Low-income housing property  
12 exemption.--Property used to provide housing pursuant to any  
13 state housing program authorized under chapter 420 to  
14 low-income or very-low-income persons as defined by s.  
15 420.0004, which property is owned entirely by a nonprofit  
16 corporation which is qualified as charitable under s.  
17 501(c)(3) of the Internal Revenue Code and which complies with  
18 Rev. Proc. 96-32, 1996-1 C.B. 717, shall be considered  
19 property owned by an exempt entity and used for a charitable  
20 purpose, and such property shall be exempt from ad valorem  
21 taxation to the extent authorized by s. 196.192.

22 (2) This section shall take effect upon this act  
23 becoming a law and shall apply retroactively to January 1,  
24 1997.

25 Section 2. Section 220.185, Florida Statutes, is  
26 created to read:

27 220.185 State housing tax credit.--

28 (1) LEGISLATIVE FINDINGS.--The Legislature finds that:

29 (a) There exist within the urban areas of the state  
30 conditions of blight evidenced by extensive deterioration of  
31 public and private facilities, abandonment of sound

1 structures, and high unemployment, and these conditions impede  
2 the conservation and development of healthy, safe, and  
3 economically viable communities.

4 (b) Deterioration of housing and industrial,  
5 commercial, and public facilities contributes to the decline  
6 of neighborhoods and communities and leads to the loss of  
7 their historic character and the sense of community which this  
8 inspires; reduces the value of property comprising the tax  
9 base of local communities; discourages private investment; and  
10 requires a disproportionate expenditure of public funds for  
11 the social services, unemployment benefits, and police  
12 protection required to combat the social and economic problems  
13 found in urban communities.

14 (c) In order to ultimately restore social and economic  
15 viability to urban areas, it is necessary to renovate or  
16 construct new infrastructure and housing, including housing  
17 specifically targeted for the elderly, and to specifically  
18 provide mechanisms to attract and encourage private economic  
19 activity.

20 (d) The various local governments and other  
21 redevelopment organizations now undertaking physical  
22 revitalization projects and new housing developments in urban  
23 areas are limited by tightly constrained budgets and  
24 inadequate resources.

25 (e) In order to significantly improve revitalization  
26 efforts by local governments and community development  
27 organizations and to retain as much of the historic character  
28 of our communities as possible, it is necessary to provide  
29 additional resources, and the participation of private  
30 enterprise in revitalization efforts is an effective means for  
31 accomplishing that goal.

1       (2) POLICY AND PURPOSE.--It is the policy of this  
2 state to encourage the participation of private corporations  
3 in revitalization projects within urban areas. The purpose of  
4 this section is to provide an incentive for such participation  
5 by granting state corporate income tax credits to qualified  
6 low-income housing projects, including housing specifically  
7 designed for the elderly, and associated mixed-use projects.  
8 The Legislature thus declares this a public purpose for which  
9 public money may be borrowed, expended, loaned, and granted.

10       (3) DEFINITIONS.--As used in this section:

11       (a) "Credit period" means the period of 10 years  
12 beginning with the year the project is completed.

13       (b) "Eligible basis" means a project's adjusted basis  
14 as of the close of the first taxable year of the credit  
15 period.

16       (c) "Adjusted basis" means the owner's adjusted basis  
17 in the project, calculated in a manner consistent with the  
18 calculation of basis under the Internal Revenue Code, taking  
19 into account the adjusted basis of property of a character  
20 subject to the allowance for depreciation used in common areas  
21 or provided as comparable amenities to the entire project.

22       (d) "Designated project" means a qualified project  
23 designated pursuant to s. 420.5093 to receive the tax credit  
24 under this section.

25       (e) "Qualified project" means a project located in an  
26 urban infill area, at least 50 percent of which, on a cost  
27 basis, consists of a qualified low-income project within the  
28 meaning of s. 42(g) of the Internal Revenue Code, including  
29 such projects designed specifically for the elderly but  
30 excluding any income restrictions imposed pursuant to s. 42(g)  
31 of the Internal Revenue Code upon residents of the project

1 unless such restrictions are otherwise established by the  
2 Florida Housing Finance Corporation pursuant to s. 420.5093,  
3 and the remainder of which constitutes commercial or  
4 single-family residential development consistent with and  
5 servng to complement the qualified low-income project.

6 (f) "Urban infill area" means an area designated for  
7 urban infill as defined by s. 163.3164.

8 (4) AUTHORIZATION TO GRANT STATE HOUSING TAX CREDITS;  
9 LIMITATION.--

10 (a) There shall be allowed a credit of 9 percent of  
11 the eligible basis of any designated project for each year of  
12 the credit period against any tax due for a taxable year under  
13 this chapter.

14 (b) The total amount of tax credit which may be  
15 granted for all projects approved under this section is \$25  
16 million annually.

17 (c) The tax credit shall be allocated among designated  
18 projects by the Florida Housing Finance Corporation as  
19 provided in s. 420.5093.

20 (d) Each designated project must comply with the  
21 applicable provisions of s. 42 of the Internal Revenue Code  
22 with respect to the multifamily residential rental housing  
23 element of the project, including specifically the provisions  
24 of s. 42(h)(6).

25 (e) A tax credit shall be allocated to a designated  
26 project and shall not be subject to transfer by the recipient  
27 unless the transferee is also an owner of the designated  
28 project.

29 Section 3. Section 420.5093, Florida Statutes, is  
30 created to read:

31 420.5093 State Housing Tax Credit Program.--

1       (1) There is created the State Housing Tax Credit  
2 Program for the purposes of stimulating creative private  
3 sector initiatives to increase the supply of affordable  
4 housing in urban areas, including specifically housing for the  
5 elderly, and to provide associated commercial facilities  
6 associated with such housing facilities.

7       (2) The Florida Housing Finance Corporation shall  
8 determine those qualified projects which shall be considered  
9 designated projects under s. 220.185 and eligible for the  
10 corporate tax credit under that section. The corporation shall  
11 establish procedures necessary for proper allocation and  
12 distribution of state housing tax credits, including the  
13 establishment of criteria for any single-family or commercial  
14 component of a project, and may exercise all powers necessary  
15 to administer the allocation of such credits. The board of  
16 directors of the corporation shall administer the allocation  
17 procedures and determine allocations on behalf of the  
18 corporation. The corporation shall prepare an annual plan,  
19 which must be approved by the Governor, containing general  
20 guidelines for the allocation and distribution of credits to  
21 designated projects.

22       (3) The corporation shall adopt allocation procedures  
23 that will ensure the maximum use of available tax credits in  
24 order to encourage development of low-income housing and  
25 associated mixed-use projects in urban areas, taking into  
26 consideration the timeliness of the application, the location  
27 of the proposed project, the relative need in the area of  
28 revitalization and low-income housing and the availability of  
29 such housing, the economic feasibility of the project, and the  
30 ability of the applicant to proceed to completion of the  
31 project in the calendar year for which the credit is sought.

1       (4)(a) A taxpayer who wishes to participate in the  
2 State Housing Tax Credit Program must submit an application  
3 for tax credit to the corporation. The application shall  
4 identify the project and its location and include evidence  
5 that the project is a qualified project as defined in s.  
6 220.185. The corporation may request any information from an  
7 applicant necessary to enable the corporation to make tax  
8 credit allocations according to the guidelines set forth in  
9 subsection (3).

10       (b) The corporation's approval of an applicant as a  
11 designated project shall be in writing and shall include a  
12 statement of the maximum credit allowable to the applicant. A  
13 copy of this approval shall be transmitted to the executive  
14 director of the Department of Revenue, who shall apply the tax  
15 credit to the tax liability of the applicant.

16       (5) For purposes of implementing this program and  
17 assessing the property for ad valorem taxation under s.  
18 193.011, neither the tax credits nor financing generated by  
19 tax credits shall be considered as income to the property, and  
20 the rental income from rent-restricted units in a state  
21 housing tax credit development shall be recognized by the  
22 property appraiser.

23       (6) The corporation is authorized to expend fees  
24 received in conjunction with the allocation of state housing  
25 tax credits only for the purpose of administration of the  
26 program, including private legal services which relate to  
27 interpretation of s. 42 of the Internal Revenue Code.

28       Section 4. Subsection (19) of section 420.503, Florida  
29 Statutes, 1998 Supplement, is amended to read:

30       420.503 Definitions.--As used in this part, the term:

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1           (19) "Housing for the elderly" means, for purposes of  
2 s. 420.5087(3)(c)2., any nonprofit housing community that is  
3 financed by a mortgage loan made or insured by the United  
4 States Department of Housing and Urban Development under s.  
5 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s.  
6 236 of the National Housing Act, as amended, and that is  
7 subject to income limitations established by the United States  
8 Department of Housing and Urban Development, or any program  
9 funded by the Rural Development Agency of the United States  
10 Department of Agriculture and subject to income limitations  
11 established by the United States Department of Agriculture. A  
12 project which qualifies for an exemption under the Fair  
13 Housing Act as housing for older persons as defined by s.  
14 760.29(4) shall qualify as housing for the elderly for  
15 purposes of s. 420.5087(3)(c)2. In addition, if the  
16 corporation adopts a qualified allocation plan pursuant to s.  
17 42(m)(1)(B) of the Internal Revenue Code or any other rules  
18 that prioritize projects targeting the elderly for purposes of  
19 allocating tax credits pursuant to s. 420.5099 or for purposes  
20 of the HOME program under s. 420.5089, a project which  
21 qualifies for an exemption under the Fair Housing Act as  
22 housing for older persons as defined by s. 760.29(4) shall  
23 qualify as a project targeted for the elderly, if the project  
24 satisfies the other requirements set forth in this part.

25           Section 5. Subsection (1) of section 420.5087, Florida  
26 Statutes, 1998 Supplement, is amended to read:

27           420.5087 State Apartment Incentive Loan  
28 Program.--There is hereby created the State Apartment  
29 Incentive Loan Program for the purpose of providing first,  
30 second, or other subordinated mortgage loans or loan  
31 guarantees to sponsors, including for-profit, nonprofit, and



1 public entities, to provide housing affordable to  
2 very-low-income persons.

3 (1) Program funds shall be distributed over successive  
4 3-year periods in a manner that meets the need and demand for  
5 very-low-income housing throughout the state. That need and  
6 demand must be determined by using the most recent statewide  
7 low-income rental housing market studies available at the  
8 beginning of each 3-year period. However, at least 10 percent  
9 of the program funds distributed during a 3-year period must  
10 be allocated to each of the following categories of counties,  
11 as determined by using the population statistics published in  
12 the most recent edition of the Florida Statistical Abstract:

13 (a) Counties that have a population of more than  
14 500,000 people;

15 (b) Counties that have a population between 100,000  
16 and 500,000 people; and

17 (c) Counties that have a population of 100,000 or  
18 less.

19  
20 Any increase in funding required to reach the 10-percent  
21 minimum shall be taken from the county category that has the  
22 largest allocation. The corporation shall adopt rules which  
23 establish an equitable process for distributing any portion of  
24 the 10 percent of program funds allocated to the county  
25 categories specified in this subsection which remains  
26 unallocated at the end of a 3-year period. Counties that have  
27 a population of 100,000 or less shall be given preference  
28 under these rules.

29 Section 6. Except as otherwise provided herein, this  
30 act shall take effect July 1, 1999.

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HOUSE SUMMARY

Provides that property used to provide housing for low-income and very-low-income persons under ch. 420, F.S., and owned by certain nonprofit corporations, is considered owned by an exempt entity and used for a charitable purpose and is exempt from ad valorem taxation.

Provides for a State Housing Tax Credit Program, under which a credit against the corporate income tax is allowed in an amount equal to a percentage of the eligible basis of certain housing projects. Provides for allocation of credits and administration by the Florida Housing Finance Corporation.

Provides that certain projects shall qualify as housing for the elderly for purposes of certain loans under the State Apartment Incentive Loan Program, and shall qualify as a project targeted for the elderly in connection with allocation of low-income housing tax credits and with the HOME program under certain conditions.

Directs the Florida Housing Finance Corporation to adopt rules for the equitable distribution of certain unallocated funds under the State Apartment Incentive Loan Program.