

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senator Klein

316-1799-99

1                                   A bill to be entitled  
2           An act relating to housing; amending s.  
3           195.1975, F.S.; amending criteria for exempting  
4           property used by nonprofit homes for the aged  
5           from ad valorem taxes; creating s. 196.1978,  
6           F.S.; providing that property used to provide  
7           housing for persons with incomes defined under  
8           ch. 420, F.S., and owned by certain nonprofit  
9           corporations, is exempt from ad valorem  
10          taxation; providing for retroactive  
11          application; amending s. 170.201, F.S.;  
12          granting municipalities the option of exempting  
13          certain nonprofit housing from special  
14          assessments from any service; creating ss.  
15          220.185 and 420.5093, F.S.; creating the State  
16          Housing Tax Credit Program; providing  
17          legislative findings and policy; providing  
18          definitions; providing for a credit against the  
19          corporate income tax in an amount equal to a  
20          percentage of the eligible basis of certain  
21          housing projects; providing a limitation;  
22          providing for allocation of credits and  
23          administration by the Florida Housing Finance  
24          Corporation; providing for an annual plan;  
25          providing application procedures; providing  
26          that neither tax credits nor financing  
27          generated thereby shall be considered income  
28          for ad valorem tax purposes; providing for  
29          recognition of certain income by the property  
30          appraiser; amending s. 420.503, F.S.; providing  
31          that certain projects shall qualify as housing

1           for the elderly for purposes of certain loans  
2           under the State Apartment Incentive Loan  
3           Program, and shall qualify as a project  
4           targeted for the elderly in connection with  
5           allocation of low-income housing tax credits  
6           and with the HOME program under certain  
7           conditions; amending s. 420.5087, F.S. ;  
8           directing the Florida Housing Finance  
9           Corporation to adopt rules for the equitable  
10          distribution of certain unallocated funds under  
11          the State Apartment Incentive Loan Program;  
12          providing effective dates.

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

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16           Section 1. Subsection (1) of section 196.1975, Florida  
17 Statutes, is amended to read:

18           196.1975 Exemption for property used by nonprofit  
19 homes for the aged.--Nonprofit homes for the aged are exempt  
20 to the extent that they meet the following criteria:

21           (1) The applicant must be a corporation not for profit  
22 that has been exempt as of January 1 of the year for which  
23 exemption from ad valorem property taxes is requested from  
24 federal income taxation by having qualified as an exempt  
25 charitable organization under the provisions of s. 501(c)(3)  
26 of the Internal Revenue Code of 1954 or of the corresponding  
27 section of a subsequently enacted federal revenue act. A  
28 corporation will not be disqualified under this subsection if,  
29 for purposes of allocating tax credits, under s. 42(h)(5) of  
30 the Internal Revenue Code of 1986, by the Florida Housing  
31 Finance Agency as defined by s. 420.0004(4), the property is

1 leased to or owned by a Florida limited partnership, the sole  
2 general partner of which is the nonprofit corporation, and the  
3 home for the aged was in existence or under construction on or  
4 before April 1, 1995.

5 Section 2. (1) Section 196.1978, Florida Statutes, is  
6 created to read:

7 196.1978 Low-income housing property  
8 exemption.--Property used to provide housing pursuant to any  
9 state housing program authorized under chapter 420 or other  
10 similar local or federal governmental affordable housing  
11 program for persons with incomes defined under s. 420.0004,  
12 which property is owned entirely by a nonprofit corporation  
13 which is qualified as charitable under s. 501(c)(3) of the  
14 Internal Revenue Code and which complies with Rev. Proc.  
15 96-32, 1996-1 C.B. 717, shall be considered property owned by  
16 an exempt entity and used for a charitable purpose, and such  
17 property shall be exempt from ad valorem taxation.

18 (2) This section shall take effect upon this act  
19 becoming a law and shall apply retroactively to January 1,  
20 1997.

21 Section 3. Subsection (2) of section 170.201, Florida  
22 Statutes, 1998 Supplement, is amended to read:

23 170.201 Special assessments.--

24 (2) Property owned or occupied by a religious  
25 institution and used as a place of worship or education; by a  
26 public or private elementary, middle, or high school; or by a  
27 governmentally financed, insured, or subsidized housing  
28 facility that is used primarily for persons who are elderly or  
29 disabled shall be exempt from any special assessment levied by  
30 a municipality to fund any service ~~emergency medical services~~  
31 if the municipality so desires. As used in this subsection,

1 the term "religious institution" means any church, synagogue,  
2 or other established physical place for worship at which  
3 nonprofit religious services and activities are regularly  
4 conducted and carried on and the term "governmentally  
5 financed, insured, or subsidized housing facility" means a  
6 facility that is financed by a mortgage loan made or insured  
7 by the United States Department of Housing and Urban  
8 Development under s. 8, s. 202, s. 221(d)(3) or (4), s. 232,  
9 or s. 236 of the National Housing Act and is owned or operated  
10 by an entity that qualifies as an exempt charitable  
11 organization under s. 501(c)(3) of the Internal Revenue Code.

12 Section 4. Section 220.185, Florida Statutes, is  
13 created to read:

14 220.185 State housing tax credit.--

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

16 (a) There exist within the urban areas of the state  
17 conditions of blight evidenced by extensive deterioration of  
18 public and private facilities, abandonment of sound  
19 structures, and high unemployment, and these conditions impede  
20 the conservation and development of healthy, safe, and  
21 economically viable communities.

22 (b) Deterioration of housing and industrial,  
23 commercial, and public facilities contributes to the decline  
24 of neighborhoods and communities and leads to the loss of  
25 their historic character and the sense of community which this  
26 inspires; reduces the value of property comprising the tax  
27 base of local communities; discourages private investment; and  
28 requires a disproportionate expenditure of public funds for  
29 the social services, unemployment benefits, and police  
30 protection required to combat the social and economic problems  
31 found in urban communities.

1           (c) In order to ultimately restore social and economic  
2 viability to urban areas, it is necessary to renovate or  
3 construct new infrastructure and housing, including housing  
4 specifically targeted for the elderly, and to specifically  
5 provide mechanisms to attract and encourage private economic  
6 activity.

7           (d) The various local governments and other  
8 redevelopment organizations now undertaking physical  
9 revitalization projects and new housing developments in urban  
10 areas are limited by tightly constrained budgets and  
11 inadequate resources.

12           (e) In order to significantly improve revitalization  
13 efforts by local governments and community development  
14 organizations and to retain as much of the historic character  
15 of our communities as possible, it is necessary to provide  
16 additional resources, and the participation of private  
17 enterprise in revitalization efforts is an effective means for  
18 accomplishing that goal.

19           (2) POLICY AND PURPOSE.--It is the policy of this  
20 state to encourage the participation of private corporations  
21 in revitalization projects within urban areas. The purpose of  
22 this section is to provide an incentive for such participation  
23 by granting state corporate income tax credits to qualified  
24 low-income housing projects, including housing specifically  
25 designed for the elderly, and associated mixed-use projects.  
26 The Legislature thus declares this a public purpose for which  
27 public money may be borrowed, expended, loaned, and granted.

28           (3) DEFINITIONS.--As used in this section, the term:

29           (a) "Credit period" means the period of 5 years  
30 beginning with the year the project is completed.

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1           (b) "Eligible basis" means a project's adjusted basis  
2 as of the close of the first taxable year of the credit  
3 period.

4           (c) "Adjusted basis" means the owner's adjusted basis  
5 in the project, calculated in a manner consistent with the  
6 calculation of basis under the Internal Revenue Code, taking  
7 into account the adjusted basis of property of a character  
8 subject to the allowance for depreciation used in common areas  
9 or provided as comparable amenities to the entire project.

10           (d) "Designated project" means a qualified project  
11 designated pursuant to s. 420.5093 to receive the tax credit  
12 under this section.

13           (e) "Qualified project" means a project located in an  
14 urban infill area, at least 50 percent of which, on a cost  
15 basis, consists of a qualified low-income project within the  
16 meaning of s. 42(g) of the Internal Revenue Code, including  
17 such projects designed specifically for the elderly but  
18 excluding any income restrictions imposed pursuant to s. 42(g)  
19 of the Internal Revenue Code upon residents of the project  
20 unless such restrictions are otherwise established by the  
21 Florida Housing Finance Corporation pursuant to s. 420.5093,  
22 and the remainder of which constitutes commercial or  
23 single-family residential development consistent with and  
24 serving to complement the qualified low-income project.

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

27           (4) AUTHORIZATION TO GRANT STATE HOUSING TAX CREDITS;  
28 LIMITATION.--

29           (a) There shall be allowed a credit of 9 percent of  
30 the eligible basis of any designated project for each year of  
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1 the credit period against any tax due for a taxable year under  
2 this chapter.

3 (b) The total amount of tax credit which may be  
4 granted for all projects approved under this section is \$5  
5 million annually, for each of 5 years.

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

9 (d) Each designated project must comply with the  
10 applicable provisions of s. 42 of the Internal Revenue Code  
11 with respect to the multifamily residential rental housing  
12 element of the project, including specifically the provisions  
13 of s. 42(h)(6).

14 (e) A tax credit shall be allocated to a designated  
15 project and shall not be subject to transfer by the recipient  
16 unless the transferee is also an owner of the designated  
17 project.

18 Section 5. Section 420.5093, Florida Statutes, is  
19 created to read:

20 420.5093 State Housing Tax Credit Program.--

21 (1) There is created the State Housing Tax Credit  
22 Program for the purposes of stimulating creative private  
23 sector initiatives to increase the supply of affordable  
24 housing in urban areas, including specifically housing for the  
25 elderly, and to provide associated commercial facilities  
26 associated with such housing facilities.

27 (2) The Florida Housing Finance Corporation shall  
28 determine those qualified projects which shall be considered  
29 designated projects under s. 220.185 and eligible for the  
30 corporate tax credit under that section. The corporation shall  
31 establish procedures necessary for proper allocation and

1 distribution of state housing tax credits, including the  
2 establishment of criteria for any single-family or commercial  
3 component of a project, and may exercise all powers necessary  
4 to administer the allocation of such credits. The board of  
5 directors of the corporation shall administer the allocation  
6 procedures and determine allocations on behalf of the  
7 corporation. The corporation shall prepare an annual plan,  
8 which must be approved by the Governor, containing general  
9 guidelines for the allocation and distribution of credits to  
10 designated projects.

11 (3) The corporation shall adopt allocation procedures  
12 that will ensure the maximum use of available tax credits in  
13 order to encourage development of low-income housing and  
14 associated mixed-use projects in urban areas, taking into  
15 consideration the timeliness of the application, the location  
16 of the proposed project, the relative need in the area of  
17 revitalization and low-income housing and the availability of  
18 such housing, the economic feasibility of the project, and the  
19 ability of the applicant to proceed to completion of the  
20 project in the calendar year for which the credit is sought.

21 (4)(a) A taxpayer who wishes to participate in the  
22 State Housing Tax Credit Program must submit an application  
23 for tax credit to the corporation. The application shall  
24 identify the project and its location and include evidence  
25 that the project is a qualified project as defined in s.  
26 220.185. The corporation may request any information from an  
27 applicant necessary to enable the corporation to make tax  
28 credit allocations according to the guidelines set forth in  
29 subsection (3).

30 (b) The corporation's approval of an applicant as a  
31 designated project shall be in writing and shall include a



1 statement of the maximum credit allowable to the applicant. A  
2 copy of this approval shall be transmitted to the executive  
3 director of the Department of Revenue, who shall apply the tax  
4 credit to the tax liability of the applicant.

5 (5) For purposes of implementing this program and  
6 assessing the property for ad valorem taxation under s.  
7 193.011, neither the tax credits nor financing generated by  
8 tax credits shall be considered as income to the property, and  
9 the rental income from rent-restricted units in a state  
10 housing tax credit development shall be recognized by the  
11 property appraiser.

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

17 Section 6. Subsection (19) of section 420.503, Florida  
18 Statutes, 1998 Supplement, is amended to read:

19 420.503 Definitions.--As used in this part, the term:

20 (19) "Housing for the elderly" means, for purposes of  
21 s. 420.5087(3)(c)2., any nonprofit housing community that is  
22 financed by a mortgage loan made or insured by the United  
23 States Department of Housing and Urban Development under s.  
24 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s.  
25 236 of the National Housing Act, as amended, and that is  
26 subject to income limitations established by the United States  
27 Department of Housing and Urban Development, or any program  
28 funded by the Rural Development Agency of the United States  
29 Department of Agriculture and subject to income limitations  
30 established by the United States Department of Agriculture. A  
31 project which qualifies for an exemption under the Fair

1 Housing Act as housing for older persons as defined by s.  
2 760.29(4) shall qualify as housing for the elderly for  
3 purposes of s. 420.5087(3)(c)2. In addition, if the  
4 corporation adopts a qualified allocation plan pursuant to s.  
5 42(m)(1)(B) of the Internal Revenue Code or any other rules  
6 that prioritize projects targeting the elderly for purposes of  
7 allocating tax credits pursuant to s. 420.5099 or for purposes  
8 of the HOME program under s. 420.5089, a project which  
9 qualifies for an exemption under the Fair Housing Act as  
10 housing for older persons as defined by s. 760.29(4) shall  
11 qualify as a project targeted for the elderly, if the project  
12 satisfies the other requirements set forth in this part.

13 Section 7. Subsection (1) of section 420.5087, Florida  
14 Statutes, 1998 Supplement, is amended to read:

15 420.5087 State Apartment Incentive Loan  
16 Program.--There is hereby created the State Apartment  
17 Incentive Loan Program for the purpose of providing first,  
18 second, or other subordinated mortgage loans or loan  
19 guarantees to sponsors, including for-profit, nonprofit, and  
20 public entities, to provide housing affordable to  
21 very-low-income persons.

22 (1) Program funds shall be distributed over successive  
23 3-year periods in a manner that meets the need and demand for  
24 very-low-income housing throughout the state. That need and  
25 demand must be determined by using the most recent statewide  
26 low-income rental housing market studies available at the  
27 beginning of each 3-year period. However, at least 10 percent  
28 of the program funds distributed during a 3-year period must  
29 be allocated to each of the following categories of counties,  
30 as determined by using the population statistics published in  
31 the most recent edition of the Florida Statistical Abstract:

1           (a) Counties that have a population of more than  
2 500,000 people;

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

5           (c) Counties that have a population of 100,000 or  
6 less.

7  
8 Any increase in funding required to reach the 10-percent  
9 minimum shall be taken from the county category that has the  
10 largest allocation. The corporation shall adopt rules which  
11 establish an equitable process for distributing any portion of  
12 the 10 percent of program funds allocated to the county  
13 categories specified in this subsection which remains  
14 unallocated at the end of a 3-year period. Counties that have  
15 a population of 100,000 or less shall be given preference  
16 under these rules.

17           Section 8. Except as otherwise provided in this act,  
18 this act shall take effect July 1, 1999.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 322

The CS differs from the bill in that it:

Amends s. 196.1975, F.S., to specify that nonprofit homes for the aged owned by a Florida Limited Partnership, under certain conditions, is not disqualified from an ad valorem tax exemption;

Amends and places the proposed low-income housing property tax exemption, as provided in section 1 of the bill as filed, in s. 196.1978, F.S., instead of s. 420.0007, F.S.;

Amends s. 170.201, F.S., 1998 Supplement, to allow municipalities to exempt certain religious, educational, and subsidized housing facilities from any special assessments levied by that municipality, rather than only municipal special assessments for emergency medical services;

Creates s. 220.185 and s. 420.5093, F.S., to create the State Housing Tax Credit Program;

Amends s. 420.503, F.S., 1998 Supplement, to expand the definition of "housing for the elderly;" and

Amends s. 420.5087, F.S., 1998 Supplement, to allow the Florida Housing Finance Corporation to adopt rules establishing a process for distributing unallocated housing funds.