

1                   A bill to be entitled  
2           An act relating to housing for older persons;  
3           amending s. 760.29, F.S.; providing that  
4           certain housing facilities or communities shall  
5           be deemend housing for older persons despite  
6           specified provisions in the document which  
7           governs deed restrictions pertaining to that  
8           facility or community; amending s. 420.503,  
9           F.S.; providing that certain projects shall  
10          qualify as housing for the elderly for purposes  
11          of certain loans under the State Apartment  
12          Incentive Loan Program, and shall qualify as a  
13          project targeted for the elderly in connection  
14          with allocation of low-income housing tax  
15          credits and with the HOME program under certain  
16          conditions; providing for severability of  
17          invalid provisions, providing an effective  
18          date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. Paragraph (b) of subsection (4) of section  
23 760.29, Florida Statutes, is amended to read:

24           760.29 Exemptions.--

25           (4)

26           (b) As used in this subsection, the term "housing for  
27 older persons" means housing:

28           1. Provided under any state or federal program that  
29 the commission determines is specifically designed and  
30 operated to assist elderly persons, as defined in the state or  
31 federal program;

1           2. Intended for, and solely occupied by, persons 62  
2 years of age or older; or

3           3. Intended and operated for occupancy by persons 55  
4 years of age or older that meets the following requirements:

5           a. At least 80 percent of the occupied units are  
6 occupied by at least one person 55 years of age or older.

7           b. The housing facility or community publishes and  
8 adheres to policies and procedures that demonstrate the intent  
9 required under this subparagraph. If the housing facility or  
10 community meets the requirements of sub-subparagraphs a. and  
11 c. and the recorded governing documents provide for an adult,  
12 senior, or retirement housing facility or community and the  
13 governing documents lack an amendatory procedure, prohibit  
14 amendments, or restrict amendments until a specified future  
15 date, then that housing facility or community shall be deemed  
16 housing for older persons intended and operated for occupancy  
17 by persons 55 years of age or older. If those documents  
18 further provide a prohibition against residents 16 years of  
19 age or younger, that provision shall be construed, for  
20 purposes of the Fair Housing Act, to only apply to residents  
21 18 years of age or younger, in order to conform with federal  
22 law requirements. Governing documents which can be amended at  
23 a future date must be amended and properly recorded within 1  
24 year after that date to reflect the requirements for  
25 consideration as housing for older persons, if that housing  
26 facility or community intends to continue as housing for older  
27 persons.

28           c. The housing facility or community complies with  
29 rules made by the Secretary of the United States Department of  
30 Housing and Urban Development pursuant to 24 C.F.R. part 100  
31 for verification of occupancy, which rules provide for

1 verification by reliable surveys and affidavits and include  
2 examples of the types of policies and procedures relevant to a  
3 determination of compliance with the requirements of  
4 sub-subparagraph b. Such surveys and affidavits are  
5 admissible in administrative and judicial proceedings for the  
6 purposes of such verification.

7  
8 A county or municipal ordinance regarding housing for older  
9 persons may not contravene the provisions of this subsection.

10 Section 2. Subsection (19) of section 420.503, Florida  
11 Statutes, 1998 Supplement, is amended to read:

12 420.503 Definitions.--As used in this part, the term:

13 (19) "Housing for the elderly" means, for purposes of  
14 s. 420.5087(3)(c)2., any nonprofit housing community that is  
15 financed by a mortgage loan made or insured by the United  
16 States Department of Housing and Urban Development under s.  
17 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s.  
18 236 of the National Housing Act, as amended, and that is  
19 subject to income limitations established by the United States  
20 Department of Housing and Urban Development, or any program  
21 funded by the Rural Development Agency of the United States  
22 Department of Agriculture and subject to income limitations  
23 established by the United States Department of Agriculture. A  
24 project which qualifies for an exemption under the Fair  
25 Housing Act as housing for older persons as defined by s.  
26 760.29(4) shall qualify as housing for the elderly for  
27 purposes of s. 420.5087(3)(c)2. In addition, if the  
28 corporation adopts a qualified allocation plan pursuant to s.  
29 42(m)(1)(B) of the Internal Revenue Code or any other rules  
30 that prioritize projects targeting the elderly for purposes of  
31 allocating tax credits pursuant to s. 420.5099 or for purposes

1 of the HOME program under s. 420.5089, a project which  
2 qualifies for an exemption under the Fair Housing Act as  
3 housing for older persons as defined by s. 760.29(4) shall  
4 qualify as a project targeted for the elderly, if the project  
5 satisfies the other requirements set forth in this part.

6 Section 3. If any provision of this act or its  
7 application to any particular person or circumstance is held  
8 invalid, that provision or its application is severable and  
9 does not affect the validity of other provisions of or  
10 applications of this act.

11 Section 4. This act shall take effect upon becoming a  
12 law.