

By the Committees on Judiciary; Comprehensive Planning, Local and Military Affairs; and Senators Sanderson and Geller

308-1888-01

1                                   A bill to be entitled  
2           An act relating to housing; amending s.  
3           420.503, F.S.; redefining the term "elderly";  
4           allowing the Mortgage Revenue Bond Program to  
5           be included in the federal fair housing  
6           definition of elder housing; amending s.  
7           420.5088, F.S.; allowing funds from the  
8           Homeowner's Assistance Program to be used for  
9           certain programs other than those sponsored by  
10          the Florida Housing Finance Corporation;  
11          amending s. 420.5092, F.S.; including housing  
12          for the homeless in eligible housing under the  
13          Florida Affordable Housing Guarantee Program;  
14          increasing the cap on the Affordable Housing  
15          Guarantee Fund; amending s. 760.29, F.S.;  
16          providing that a facility or community claiming  
17          an exemption from said act with respect to  
18          familial status for housing for older persons  
19          shall register with the Florida Commission on  
20          Human Relations and affirm compliance with  
21          specified requirements; providing for a  
22          registration fee; providing for fines; amending  
23          s. 760.31, F.S.; providing for rules; providing  
24          an effective date.

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

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28           Section 1. Subsections (15) and (19) of section  
29   420.503, Florida Statutes, are amended to read:  
30           420.503 Definitions.--As used in this part, the term:  
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1           (15) "Elderly" means persons 62 years of age or older;  
2 however, this subsection does not prohibit housing from being  
3 housing for the elderly as defined in this section if the  
4 housing otherwise conforms to that definition.

5           (19) "Housing for the elderly" means, for purposes of  
6 s. 420.5087(3)(c)2., any nonprofit housing community that is  
7 financed by a mortgage loan made or insured by the United  
8 States Department of Housing and Urban Development under s.  
9 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s.  
10 236 of the National Housing Act, as amended, and that is  
11 subject to income limitations established by the United States  
12 Department of Housing and Urban Development, or any program  
13 funded by the Rural Development Agency of the United States  
14 Department of Agriculture and subject to income limitations  
15 established by the United States Department of Agriculture. A  
16 project which qualifies for an exemption under the Fair  
17 Housing Act as housing for older persons as defined by s.  
18 760.29(4) shall qualify as housing for the elderly for  
19 purposes of s. 420.5087(3)(c)2. and for purposes of any loans  
20 made under s. 420.508. In addition, if the corporation adopts  
21 a qualified allocation plan pursuant to s. 42(m)(1)(B) of the  
22 Internal Revenue Code or any other rules that prioritize  
23 projects targeting the elderly for purposes of allocating tax  
24 credits pursuant to s. 420.5099 or for purposes of the HOME  
25 program under s. 420.5089, a project which qualifies for an  
26 exemption under the Fair Housing Act as housing for older  
27 persons as defined by s. 760.29(4) shall qualify as a project  
28 targeted for the elderly, if the project satisfies the other  
29 requirements set forth in this part.

30           Section 2. Paragraph (a) of subsection (1) of section  
31 420.5088, Florida Statutes, is amended to read:

1           420.5088 Florida Homeownership Assistance  
2 Program.--There is created the Florida Homeownership  
3 Assistance Program for the purpose of assisting low-income  
4 persons in purchasing a home by reducing the cost of the home  
5 with below-market construction financing, by reducing the  
6 amount of down payment and closing costs paid by the borrower  
7 to a maximum of 5 percent of the purchase price, or by  
8 reducing the monthly payment to an affordable amount for the  
9 purchaser. Loans shall be made available at an interest rate  
10 that does not exceed 3 percent. The balance of any loan is due  
11 at closing if the property is sold or transferred.

12           (1) For loans made available pursuant to s.  
13 420.507(23)(a)1. or 2.:

14           (a) The corporation may underwrite and make those  
15 mortgage loans through the program to persons or families ~~who~~  
16 ~~are eligible to participate in the corporation's single-family~~  
17 ~~mortgage revenue bond programs and who have incomes that do~~  
18 ~~not exceed 80 percent of the state or local median income,~~  
19 ~~whichever is greater, adjusted for family size. If the~~  
20 ~~corporation determines that there is insufficient demand for~~  
21 ~~such loans by persons or families who are eligible to~~  
22 ~~participate in the corporation's single-family mortgage~~  
23 ~~revenue bond programs, the corporation may make such mortgage~~  
24 ~~loans to other persons or families who have incomes that do~~  
25 ~~not exceed 80 percent of the state or local median income,~~  
26 ~~whichever amount is greater.~~

27           Section 3. Paragraph (d) of subsection (2) and  
28 subsection (11) of section 420.5092, Florida Statutes, are  
29 amended to read:

30           420.5092 Florida Affordable Housing Guarantee  
31 Program.--

1 (2) As used in this section, the term:

2 (d) "Eligible housing" means any real and personal  
3 property designed and intended for the primary purpose of  
4 providing decent, safe, and sanitary residential units for  
5 homeownership or rental for eligible persons, including  
6 specifically housing for the homeless, as determined by the  
7 corporation pursuant to rule.

8 (11) The maximum total amount of revenue bonds that  
9 may be issued by the corporation pursuant to subsection (5) is  
10 \$400~~\$200~~ million.

11 Section 4. Paragraph (e) is added to subsection (4) of  
12 section 760.29, Florida Statutes, to read:

13 760.29 Exemptions.--

14 (4)(a) Any provision of ss. 760.20-760.37 regarding  
15 familial status does not apply with respect to housing for  
16 older persons.

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

19 1. Provided under any state or federal program that  
20 the commission determines is specifically designed and  
21 operated to assist elderly persons, as defined in the state or  
22 federal program;

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

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

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

29 b. The housing facility or community publishes and  
30 adheres to policies and procedures that demonstrate the intent  
31 required under this subparagraph. If the housing facility or

1 community meets the requirements of sub-subparagraphs a. and  
2 c. and the recorded governing documents provide for an adult,  
3 senior, or retirement housing facility or community and the  
4 governing documents lack an amendatory procedure, prohibit  
5 amendments, or restrict amendments until a specified future  
6 date, then that housing facility or community shall be deemed  
7 housing for older persons intended and operated for occupancy  
8 by persons 55 years of age or older. If those documents  
9 further provide a prohibition against residents 16 years of  
10 age or younger, that provision shall be construed, for  
11 purposes of the Fair Housing Act, to only apply to residents  
12 18 years of age or younger, in order to conform with federal  
13 law requirements. Governing documents which can be amended at  
14 a future date must be amended and properly recorded within 1  
15 year after that date to reflect the requirements for  
16 consideration as housing for older persons, if that housing  
17 facility or community intends to continue as housing for older  
18 persons.

19 c. The housing facility or community complies with  
20 rules made by the Secretary of the United States Department of  
21 Housing and Urban Development pursuant to 24 C.F.R. part 100  
22 for verification of occupancy, which rules provide for  
23 verification by reliable surveys and affidavits and include  
24 examples of the types of policies and procedures relevant to a  
25 determination of compliance with the requirements of  
26 sub-subparagraph b. Such surveys and affidavits are  
27 admissible in administrative and judicial proceedings for the  
28 purposes of such verification.

29 (c) Housing shall not fail to be considered housing  
30 for older persons if:  
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1           1. A person who resides in such housing on or after  
2 October 1, 1989, does not meet the age requirements of this  
3 subsection, provided that any new occupant meets such age  
4 requirements; or

5           2. One or more units are unoccupied, provided that any  
6 unoccupied units are reserved for occupancy by persons who  
7 meet the age requirements of this subsection.

8           (d) A person shall not be personally liable for  
9 monetary damages for a violation of this subsection if such  
10 person reasonably relied in good faith on the application of  
11 the exemption under this subsection relating to housing for  
12 older persons. For purposes of this paragraph, a person may  
13 show good faith reliance on the application of the exemption  
14 only by showing that:

15           1. The person has no actual knowledge that the  
16 facility or the community is ineligible, or will become  
17 ineligible, for such exemption; and

18           2. The facility or community has stated formally, in  
19 writing, that the facility or community complies with the  
20 requirements for such exemption.

21           (e) A facility or community claiming an exemption  
22 under this subsection shall register with the commission and  
23 submit a letter to the commission stating that the facility or  
24 community complies with the requirements of paragraph (b)1.,  
25 2., or 3. The letter shall be submitted on the letterhead of  
26 the facility or community and shall be signed by the president  
27 of the facility or community. This registration and  
28 documentation shall be renewed biennially from the date of  
29 original filing. The information in the registry shall be made  
30 available to the public, and the commission shall include this  
31 information on an Internet web site. The commission may

1 establish a reasonable registration fee, not to exceed \$20,  
2 that shall be deposited into the commission's trust fund to  
3 defray the administrative costs associated with maintaining  
4 the registry. The commission may impose an administrative  
5 fine, not to exceed \$500, on a facility or community that  
6 knowingly submits false information in the documentation  
7 required by this paragraph. Such fines shall be deposited in  
8 the commission's trust fund. The registration and  
9 documentation required by this paragraph shall not substitute  
10 for proof of compliance with the requirements of this  
11 subsection. Failure to comply with the requirements of this  
12 paragraph shall not disqualify a facility or community that  
13 otherwise qualifies for the exemption provided in this  
14 subsection.

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16 A county or municipal ordinance regarding housing for older  
17 persons may not contravene the provisions of this subsection.

18 Section 5. Subsection (5) of section 760.31, Florida  
19 Statutes, is amended to read:

20 760.31 Powers and duties of commission.--The  
21 commission shall:

22 (5) Adopt rules necessary to implement ss.  
23 760.20-760.37 and govern the proceedings of the commission in  
24 accordance with chapter 120. Commission rules shall clarify  
25 terms used with regard to handicapped accessibility,  
26 exceptions from accessibility requirements based on terrain or  
27 site characteristics, and requirements related to housing for  
28 older persons. Commission rules shall specify the fee and the  
29 forms and procedures to be used for the registration required  
30 by s. 760.29(4)(e).

31 Section 6. This act shall take effect October 1, 2001.

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3   CS/SB 294  
4                   Amends s. 420.503, F.S., of the Florida Housing Finance  
5                   Corporation Act to clarify definitions relating to "elderly"  
6                   and "housing for the elderly" as applied under this act and to  
7                   allow the Mortgage Review Bond Program be included in the  
8                   definition for elderly housing.  
9                   Amends s. 420.5088, F.S., of the Florida Housing Finance  
10                   Corporation Act to expand the corporation's authority to  
11                   assist a broader class of homebuyers with financial assistance  
12                   under the Florida Homeownership Assistance Program.  
13                   Amends s. 420.5092, F.S., of the Florida Housing Finance  
14                   Corporation Act to increase its bonding capacity from \$200 to  
15                   \$400 million under the Florida Affordable Housing Guarantee  
16                   Program.  
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