

1 A bill to be entitled
 2 An act relating to affordable housing; amending s. 201.15,
 3 F.S.; providing criteria relating to distribution of
 4 proceeds from the excise tax on documents to increase
 5 housing accessibility for persons with special needs;
 6 amending s. 420.0003, F.S.; providing additional policy
 7 guidelines under the state housing strategy for the
 8 development of programs for housing production or
 9 rehabilitation; including the needs of persons with
 10 special needs in the strategy's periodic review and
 11 report; amending s. 420.0004, F.S.; defining the terms
 12 "disabling condition" and "person with special needs";
 13 conforming cross-references; amending s. 420.5087, F.S.;
 14 including persons with special needs as a tenant group for
 15 specified purposes of the State Apartment Incentive Loan
 16 Program; amending ss. 163.31771, 196.1978, 212.08,
 17 215.5586, and 420.507, F.S.; conforming cross-references;
 18 providing an effective date.

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

21
 22 Section 1. Subsection (16) of section 201.15, Florida
 23 Statutes, is renumbered as subsection (17), and a new subsection
 24 (16) is added to that section to read:

25 201.15 Distribution of taxes collected.--All taxes
 26 collected under this chapter are subject to the service charge
 27 imposed in s. 215.20(1). Prior to distribution under this
 28 section, the Department of Revenue shall deduct amounts

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29 necessary to pay the costs of the collection and enforcement of
30 the tax levied by this chapter. Such costs and the service
31 charge may not be levied against any portion of taxes pledged to
32 debt service on bonds to the extent that the costs and service
33 charge are required to pay any amounts relating to the bonds.
34 All taxes remaining after deduction of costs and the service
35 charge shall be distributed as follows:

36 (16) In order to increase the financial feasibility and
37 accessibility of housing funded by the Florida Housing Finance
38 Corporation for persons with special needs, 10 percent of funds
39 generated that exceed the limits in subsections (9) and (10)
40 shall be distributed to the State Housing Trust Fund for use by
41 the Department of Community Affairs and the Florida Housing
42 Finance Corporation to assist in the production costs, operating
43 costs, or a rent assistance program to increase access to units
44 that are affordable to persons with special needs, as defined in
45 s. 420.004(13). Individuals receiving funding from these sources
46 for affordable housing are restricted to persons who meet the
47 definition of persons with special needs under s. 420.004(13)
48 and whose total annual adjusted gross household income does not
49 exceed the supplemental security income (SSI). An individual may
50 not be excluded from eligibility for a unit or assistance due to
51 part-time supplemental employment income that does not exceed
52 SSI eligibility requirements. This distribution is intended to
53 increase accessibility of housing for persons with special needs
54 and to supplement but not supplant existing similar efforts.

55 Section 2. Paragraph (e) of subsection (3) and paragraph
 56 (c) of subsection (4) of section 420.0003, Florida Statutes, are
 57 amended to read:

58 420.0003 State housing strategy.--

59 (3) POLICIES.--

60 (e) Housing production or rehabilitation programs.--New
 61 programs for housing production or rehabilitation shall be
 62 developed in accordance with the following general guidelines as
 63 appropriate for the purpose of the specific program:

64 1. State and local governments shall provide incentives to
 65 encourage the private sector to be the primary delivery vehicle
 66 for the development of affordable housing.

67 2. State funds should be heavily leveraged to achieve the
 68 maximum local and private commitment of funds while achieving
 69 the program objectives.

70 3. To the maximum extent possible, state funds should be
 71 expended to provide housing units rather than to support program
 72 administration.

73 4. State money should be used, when possible, as loans
 74 rather than grants.

75 5. State funds should be available only to local
 76 governments that provide incentives or financial assistance for
 77 housing.

78 6. State funds should be made available only for projects
 79 which are consistent with the local government comprehensive
 80 plan.

81 7. State funding for housing should not be made available
 82 to local governments whose comprehensive plans have been found

83 | not in compliance with chapter 163 and who have not entered into
 84 | a stipulated settlement agreement with the Department of
 85 | Community Affairs to bring the plan into compliance.

86 | 8. Mixed income projects should be encouraged, to avoid a
 87 | concentration of low-income residents in one area or project.

88 | 9. Distribution of state housing funds should be flexible
 89 | and consider the regional and local needs, resources, and
 90 | capabilities of housing producers.

91 | 10. Income levels used to determine program eligibility
 92 | should be adjusted for family size in determining the
 93 | eligibility of specific beneficiaries.

94 | 11. To the maximum extent possible, state-owned lands that
 95 | are appropriate for the development of affordable housing shall
 96 | be made available for that purpose.

97 | 12. Distribution of housing funds for multifamily rental
 98 | housing should be administered to address the housing needs of
 99 | persons most in need of housing, including persons with special
 100 | needs, as defined in s. 420.004(13).

101 | 13. Unit distribution of mixed-income projects funded or
 102 | administered by the state through the State Apartment Incentive
 103 | Loan Program, the HOME Investment Partnership Program, or the
 104 | federal low-income housing tax credit program, shall be as
 105 | follows:

106 | a. The percentage distribution of units targeted for
 107 | extremely-low-income persons shall mirror the percentage
 108 | distribution of current housing needs data of extremely-low-
 109 | income persons and may not be less than 20 percent of the units.

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110 b. At least half of the units designated for extremely-
111 low-income persons, not less than 10 percent of the project's
112 total units, must be reserved for persons with special needs, as
113 defined in s. 420.0004(13).

114 (4) IMPLEMENTATION.--The Department of Community Affairs
115 and the Florida Housing Finance Corporation in carrying out the
116 strategy articulated herein shall have the following duties:

117 (c) The Shimberg Center for Affordable Housing, in
118 consultation with the Department of Community Affairs and the
119 Florida Housing Finance Corporation, shall review and evaluate
120 existing housing rehabilitation, production, and finance
121 programs to determine their consistency with relevant policies
122 in this section and identify the needs of specific populations,
123 including, but not limited to, elderly persons, ~~and~~ handicapped
124 persons, and persons with special needs, and shall recommend
125 statutory modifications where appropriate. The Shimberg Center
126 for Affordable Housing, in consultation with the Department of
127 Community Affairs and the corporation, shall also evaluate the
128 degree of coordination between state housing programs, and
129 between state, federal, and local housing activities, and shall
130 recommend improved program linkages. The recommendations
131 required above and a report of any programmatic modifications
132 made as a result of these policies shall be included in the
133 housing report required by s. 420.6075, beginning December 31,
134 1991, and every 5 years thereafter.

135 Section 3. Section 420.0004, Florida Statutes, is amended
136 to read:

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137 420.0004 Definitions.--As used in this part, unless the
138 context otherwise indicates:

139 (1) "Adjusted for family size" means adjusted in a manner
140 which results in an income eligibility level which is lower for
141 households with fewer than four people, or higher for households
142 with more than four people, than the base income eligibility
143 determined as provided in subsection (9) ~~(8)~~, subsection (11)
144 ~~(10)~~, subsection (12) ~~(11)~~, or subsection (17) ~~(15)~~, based upon
145 a formula as established by the United States Department of
146 Housing and Urban Development.

147 (2) "Adjusted gross income" means all wages, assets,
148 regular cash or noncash contributions or gifts from persons
149 outside the household, and such other resources and benefits as
150 may be determined to be income by the United States Department
151 of Housing and Urban Development, adjusted for family size, less
152 deductions allowable under s. 62 of the Internal Revenue Code.

153 (3) "Affordable" means that monthly rents or monthly
154 mortgage payments including taxes, insurance, and utilities do
155 not exceed 30 percent of that amount which represents the
156 percentage of the median adjusted gross annual income for the
157 households as indicated in subsection (9) ~~(8)~~, subsection (11)
158 ~~(10)~~, subsection (12) ~~(11)~~, or subsection (17) ~~(15)~~.

159 (4) "Corporation" means the Florida Housing Finance
160 Corporation.

161 (5) "Community-based organization" or "nonprofit
162 organization" means a private corporation organized under
163 chapter 617 to assist in the provision of housing and related
164 services on a not-for-profit basis and which is acceptable to

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165 federal and state agencies and financial institutions as a
166 sponsor of low-income housing.

167 (6) "Department" means the Department of Community
168 Affairs.

169 (7) "Disabling condition" means a diagnosable substance
170 abuse disorder, serious mental illness, developmental
171 disability, or chronic physical illness or disability, or the
172 co-occurrence of two or more of these conditions, and a
173 determination that the condition is:

174 (a) Expected to be of long-continued and indefinite
175 duration;

176 (b) Not expected to impair the ability of the person with
177 special needs to live independently with appropriate supports;
178 and

179 (c) Of such a nature that such condition could be improved
180 by more suitable housing conditions.

181 (8)~~(7)~~ "Elderly" describes persons 62 years of age or
182 older.

183 (9)~~(8)~~ "Extremely-low-income persons" means one or more
184 natural persons or a family whose total annual household income
185 does not exceed 30 percent of the median annual adjusted gross
186 income for households within the state. The Florida Housing
187 Finance Corporation may adjust this amount annually by rule to
188 provide that in lower income counties, extremely low income may
189 exceed 30 percent of area median income and that in higher
190 income counties, extremely low income may be less than 30
191 percent of area median income.

192 ~~(10)-(9)~~ "Local public body" means any county,
 193 municipality, or other political subdivision, or any housing
 194 authority as provided by chapter 421, which is eligible to
 195 sponsor or develop housing for farmworkers and very-low-income
 196 and low-income persons within its jurisdiction.

197 ~~(11)-(10)~~ "Low-income persons" means one or more natural
 198 persons or a family, the total annual adjusted gross household
 199 income of which does not exceed 80 percent of the median annual
 200 adjusted gross income for households within the state, or 80
 201 percent of the median annual adjusted gross income for
 202 households within the metropolitan statistical area (MSA) or, if
 203 not within an MSA, within the county in which the person or
 204 family resides, whichever is greater.

205 ~~(12)-(11)~~ "Moderate-income persons" means one or more
 206 natural persons or a family, the total annual adjusted gross
 207 household income of which is less than 120 percent of the median
 208 annual adjusted gross income for households within the state, or
 209 120 percent of the median annual adjusted gross income for
 210 households within the metropolitan statistical area (MSA) or, if
 211 not within an MSA, within the county in which the person or
 212 family resides, whichever is greater.

213 (13) "Person with special needs" means a person with a
 214 disabling condition; a person receiving benefits under the
 215 Social Security Disability Insurance (SSDI) program or the
 216 Supplemental Security Income (SSI) program or from veterans'
 217 disability benefits; a young adult, 22 years of age or younger,
 218 exiting foster care; or a survivor of domestic violence or other
 219 extremely-low-income household requiring independent living

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220 services in order to maintain housing or develop independent
221 living skills.

222 (14)~~(12)~~ "Student" means any person not living with his or
223 her parent or guardian who is eligible to be claimed by his or
224 her parent or guardian as a dependent under the federal income
225 tax code and who is enrolled on at least a half-time basis in a
226 secondary school, career center, community college, college, or
227 university.

228 (15)~~(13)~~ "Substandard" means:

229 (a) Any unit lacking complete plumbing or sanitary
230 facilities for the exclusive use of the occupants;

231 (b) A unit which is in violation of one or more major
232 sections of an applicable housing code and where such violation
233 poses a serious threat to the health of the occupant; or

234 (c) A unit that has been declared unfit for human
235 habitation but that could be rehabilitated for less than 50
236 percent of the property value.

237 (16)~~(14)~~ "Substantial rehabilitation" means repair or
238 restoration of a dwelling unit where the value of such repair or
239 restoration exceeds 40 percent of the value of the dwelling.

240 (17)~~(15)~~ "Very-low-income persons" means one or more
241 natural persons or a family, not including students, the total
242 annual adjusted gross household income of which does not exceed
243 50 percent of the median annual adjusted gross income for
244 households within the state, or 50 percent of the median annual
245 adjusted gross income for households within the metropolitan
246 statistical area (MSA) or, if not within an MSA, within the

247 | county in which the person or family resides, whichever is
 248 | greater.

249 | Section 4. Subsection (3) of section 420.5087, Florida
 250 | Statutes, is amended to read:

251 | 420.5087 State Apartment Incentive Loan Program.--There is
 252 | hereby created the State Apartment Incentive Loan Program for
 253 | the purpose of providing first, second, or other subordinated
 254 | mortgage loans or loan guarantees to sponsors, including for-
 255 | profit, nonprofit, and public entities, to provide housing
 256 | affordable to very-low-income persons.

257 | (3) During the first 6 months of loan or loan guarantee
 258 | availability, program funds shall be reserved for use by
 259 | sponsors who provide the housing set-aside required in
 260 | subsection (2) for the tenant groups designated in this
 261 | subsection. The reservation of funds to each of these groups
 262 | shall be determined using the most recent statewide very-low-
 263 | income rental housing market study available at the time of
 264 | publication of each notice of fund availability required by
 265 | paragraph (6) (b). The reservation of funds within each notice of
 266 | fund availability to the tenant groups in paragraphs (a), (b),
 267 | ~~and~~ (d), and (e) may not be less than 10 percent of the funds
 268 | available at that time. Any increase in funding required to
 269 | reach the 10-percent minimum must be taken from the tenant group
 270 | that has the largest reservation. The reservation of funds
 271 | within each notice of fund availability to the tenant group in
 272 | paragraph (c) may not be less than 5 percent of the funds
 273 | available at that time. The tenant groups are:

274 | (a) Commercial fishing workers and farmworkers;

275 (b) Families;

276 (c) Persons who are homeless; and

277 (d) Elderly persons. Ten percent of the amount reserved

278 for the elderly shall be reserved to provide loans to sponsors

279 of housing for the elderly for the purpose of making building

280 preservation, health, or sanitation repairs or improvements

281 which are required by federal, state, or local regulation or

282 code, or lifesafety or security-related repairs or improvements

283 to such housing. Such a loan may not exceed \$750,000 per housing

284 community for the elderly. In order to receive the loan, the

285 sponsor of the housing community must make a commitment to match

286 at least 5 percent of the loan amount to pay the cost of such

287 repair or improvement. The corporation shall establish the rate

288 of interest on the loan, which may not exceed 3 percent, and the

289 term of the loan, which may not exceed 15 years; however, if the

290 lien of the corporation's encumbrance is subordinate to the lien

291 of another mortgagee, then the term may be made coterminous with

292 the longest term of the superior lien. The term of the loan

293 shall be based on a credit analysis of the applicant. The

294 corporation may forgive indebtedness for a share of the loan

295 attributable to the units in a project reserved for extremely-

296 low-income elderly by nonprofit organizations, as defined in s.

297 420.0004(5), where the project has provided affordable housing

298 to the elderly for 15 years or more. The corporation shall

299 establish, by rule, the procedure and criteria for receiving,

300 evaluating, and competitively ranking all applications for loans

301 under this paragraph. A loan application must include evidence

302 of the first mortgagee's having reviewed and approved the

303 sponsor's intent to apply for a loan. A nonprofit organization
 304 or sponsor may not use the proceeds of the loan to pay for
 305 administrative costs, routine maintenance, or new construction.

306 (e) Persons with special needs, as defined in s.
 307 420.0004(13).

308 Section 5. Paragraphs (d), (e), (f), and (g) of subsection
 309 (2) of section 163.31771, Florida Statutes, are amended to read:

310 163.31771 Accessory dwelling units.--

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

312 (d) "Low-income persons" has the same meaning as in s.
 313 420.0004(11)~~(10)~~.

314 (e) "Moderate-income persons" has the same meaning as in
 315 s. 420.0004(12)~~(11)~~.

316 (f) "Very-low-income persons" has the same meaning as in
 317 s. 420.0004(17)~~(15)~~.

318 (g) "Extremely-low-income persons" has the same meaning as
 319 in s. 420.0004(9)~~(8)~~.

320 Section 6. Section 196.1978, Florida Statutes, is amended
 321 to read:

322 196.1978 Affordable housing property exemption.--Property
 323 used to provide affordable housing serving eligible persons as
 324 defined by s. 159.603(7) and persons meeting income limits
 325 specified in s. 420.0004(9)~~(8)~~, (11)~~(10)~~, (12)~~(11)~~, and
 326 (17)~~(15)~~, which property is owned entirely by a nonprofit entity
 327 which is qualified as charitable under s. 501(c)(3) of the
 328 Internal Revenue Code and which complies with Rev. Proc. 96-32,
 329 1996-1 C.B. 717, shall be considered property owned by an exempt
 330 entity and used for a charitable purpose, and those portions of

331 the affordable housing property which provide housing to
 332 individuals with incomes as defined in s. 420.0004 (11) ~~(10)~~ and
 333 (17) ~~(15)~~ shall be exempt from ad valorem taxation to the extent
 334 authorized in s. 196.196. All property identified in this
 335 section shall comply with the criteria for determination of
 336 exempt status to be applied by property appraisers on an annual
 337 basis as defined in s. 196.195. The Legislature intends that any
 338 property owned by a limited liability company which is
 339 disregarded as an entity for federal income tax purposes
 340 pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be
 341 treated as owned by its sole member.

342 Section 7. Paragraph (o) of subsection (5) of section
 343 212.08, Florida Statutes, is amended to read:

344 212.08 Sales, rental, use, consumption, distribution, and
 345 storage tax; specified exemptions.--The sale at retail, the
 346 rental, the use, the consumption, the distribution, and the
 347 storage to be used or consumed in this state of the following
 348 are hereby specifically exempt from the tax imposed by this
 349 chapter.

350 (5) EXEMPTIONS; ACCOUNT OF USE.--

351 (o) Building materials in redevelopment projects.--

352 1. As used in this paragraph, the term:

353 a. "Building materials" means tangible personal property
 354 that becomes a component part of a housing project or a mixed-
 355 use project.

356 b. "Housing project" means the conversion of an existing
 357 manufacturing or industrial building to housing units in an
 358 urban high-crime area, enterprise zone, empowerment zone, Front

359 | Porch Community, designated brownfield area, or urban infill
 360 | area and in which the developer agrees to set aside at least 20
 361 | percent of the housing units in the project for low-income and
 362 | moderate-income persons or the construction in a designated
 363 | brownfield area of affordable housing for persons described in
 364 | s. 420.0004 (9) ~~(8)~~, (11) ~~(10)~~, (12) ~~(11)~~, or (17) ~~(15)~~ or in s.
 365 | 159.603(7).

366 | c. "Mixed-use project" means the conversion of an existing
 367 | manufacturing or industrial building to mixed-use units that
 368 | include artists' studios, art and entertainment services, or
 369 | other compatible uses. A mixed-use project must be located in an
 370 | urban high-crime area, enterprise zone, empowerment zone, Front
 371 | Porch Community, designated brownfield area, or urban infill
 372 | area, and the developer must agree to set aside at least 20
 373 | percent of the square footage of the project for low-income and
 374 | moderate-income housing.

375 | d. "Substantially completed" has the same meaning as
 376 | provided in s. 192.042(1).

377 | 2. Building materials used in the construction of a
 378 | housing project or mixed-use project are exempt from the tax
 379 | imposed by this chapter upon an affirmative showing to the
 380 | satisfaction of the department that the requirements of this
 381 | paragraph have been met. This exemption inures to the owner
 382 | through a refund of previously paid taxes. To receive this
 383 | refund, the owner must file an application under oath with the
 384 | department which includes:

385 | a. The name and address of the owner.

386 b. The address and assessment roll parcel number of the
 387 project for which a refund is sought.

388 c. A copy of the building permit issued for the project.

389 d. A certification by the local building code inspector
 390 that the project is substantially completed.

391 e. A sworn statement, under penalty of perjury, from the
 392 general contractor licensed in this state with whom the owner
 393 contracted to construct the project, which statement lists the
 394 building materials used in the construction of the project and
 395 the actual cost thereof, and the amount of sales tax paid on
 396 these materials. If a general contractor was not used, the owner
 397 shall provide this information in a sworn statement, under
 398 penalty of perjury. Copies of invoices evidencing payment of
 399 sales tax must be attached to the sworn statement.

400 3. An application for a refund under this paragraph must
 401 be submitted to the department within 6 months after the date
 402 the project is deemed to be substantially completed by the local
 403 building code inspector. Within 30 working days after receipt of
 404 the application, the department shall determine if it meets the
 405 requirements of this paragraph. A refund approved pursuant to
 406 this paragraph shall be made within 30 days after formal
 407 approval of the application by the department.

408 4. The department shall establish by rule an application
 409 form and criteria for establishing eligibility for exemption
 410 under this paragraph.

411 5. The exemption shall apply to purchases of materials on
 412 or after July 1, 2000.

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413 Section 8. Paragraphs (a) and (g) of subsection (2) of
414 section 215.5586, Florida Statutes, are amended to read:

415 215.5586 My Safe Florida Home Program.--There is
416 established within the Department of Financial Services the My
417 Safe Florida Home Program. The department shall provide fiscal
418 accountability, contract management, and strategic leadership
419 for the program, consistent with this section. This section does
420 not create an entitlement for property owners or obligate the
421 state in any way to fund the inspection or retrofitting of
422 residential property in this state. Implementation of this
423 program is subject to annual legislative appropriations. It is
424 the intent of the Legislature that the My Safe Florida Home
425 Program provide inspections for at least 400,000 site-built,
426 single-family, residential properties and provide grants to at
427 least 35,000 applicants before June 30, 2009. The program shall
428 develop and implement a comprehensive and coordinated approach
429 for hurricane damage mitigation that shall include the
430 following:

431 (2) MITIGATION GRANTS.--Financial grants shall be used to
432 encourage single-family, site-built, owner-occupied, residential
433 property owners to retrofit their properties to make them less
434 vulnerable to hurricane damage.

435 (a) To be eligible for a grant for persons who have
436 obtained a completed inspection after May 1, 2007, a residential
437 property must:

438 1. Have been granted a homestead exemption under chapter
439 196.

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440 2. Be a dwelling with an insured value of \$300,000 or
441 less. Homeowners who are low-income persons, as defined in s.
442 420.0004(11)-~~(10)~~, are exempt from this requirement.

443 3. Have undergone an acceptable hurricane mitigation
444 inspection.

445 4. Be located in the "wind-borne debris region" as that
446 term is defined in s. 1609.2, International Building Code
447 (2006).

448 5. Be a home for which the building permit application for
449 initial construction was made before March 1, 2002.

450

451 An application for a grant must contain a signed or
452 electronically verified statement made under penalty of perjury
453 that the applicant has submitted only a single application and
454 must have attached documents demonstrating the applicant meets
455 the requirements of this paragraph.

456 (g) Low-income homeowners, as defined in s.
457 420.0004(11)-~~(10)~~, who otherwise meet the requirements of
458 paragraphs (a), (c), (e), and (f) are eligible for a grant of up
459 to \$5,000 and are not required to provide a matching amount to
460 receive the grant. Additionally, for low-income homeowners,
461 grant funding may be used for repair to existing structures
462 leading to any of the mitigation improvements provided in
463 paragraph (e), limited to 20 percent of the grant value. The
464 program may accept a certification directly from a low-income
465 homeowner that the homeowner meets the requirements of s.
466 420.0004(11)-~~(10)~~ if the homeowner provides such certification in

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467 a signed or electronically verified statement made under penalty
 468 of perjury.

469 Section 9. Subsection (46) of section 420.507, Florida
 470 Statutes, is amended to read:

471 420.507 Powers of the corporation.--The corporation shall
 472 have all the powers necessary or convenient to carry out and
 473 effectuate the purposes and provisions of this part, including
 474 the following powers which are in addition to all other powers
 475 granted by other provisions of this part:

476 (46) To require, as a condition of financing a multifamily
 477 rental project, that an agreement be recorded in the official
 478 records of the county where the real property is located, which
 479 requires that the project be used for housing defined as
 480 affordable in s. 420.0004(3) by persons defined in s.
 481 420.0004(9)~~(8)~~, (11)~~(10)~~, (12)~~(11)~~, and (17)~~(15)~~. Such an
 482 agreement is a state land use regulation that limits the highest
 483 and best use of the property within the meaning of s.
 484 193.011(2).

485 Section 10. This act shall take effect July 1, 2009.