



301278

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2009	.	
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The Committee on Community Affairs (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (e) of subsection (3) and paragraph
(c) of subsection (4) of section 420.0003, Florida Statutes, are
amended to read:

420.0003 State housing strategy.—

(3) POLICIES.—

(e) *Housing production or rehabilitation programs.*—New



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12 programs for housing production or rehabilitation shall be
13 developed in accordance with the following general guidelines as
14 appropriate for the purpose of the specific program:

15 1. State and local governments shall provide incentives to
16 encourage the private sector to be the primary delivery vehicle
17 for the development of affordable housing.

18 2. State funds should be heavily leveraged to achieve the
19 maximum local and private commitment of funds while achieving
20 the program objectives.

21 3. To the maximum extent possible, state funds should be
22 expended to provide housing units rather than to support program
23 administration.

24 4. State money should be used, when possible, as loans
25 rather than grants.

26 5. State funds should be available only to local
27 governments that provide incentives or financial assistance for
28 housing.

29 6. State funds should be made available only for projects
30 which are consistent with the local government comprehensive
31 plan.

32 7. State funding for housing should not be made available
33 to local governments whose comprehensive plans have been found
34 not in compliance with chapter 163 and who have not entered into
35 a stipulated settlement agreement with the Department of
36 Community Affairs to bring the plan into compliance.

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

39 9. Distribution of state housing funds should be flexible
40 and consider the regional and local needs, resources, and



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41 capabilities of housing producers.

42 10. Distribution of housing funds for multifamily rental
43 housing should be administered to address the housing needs of
44 persons most in need of housing.

45 ~~11.10.~~ Income levels used to determine program eligibility
46 should be adjusted for family size in determining the
47 eligibility of specific beneficiaries.

48 ~~12.11.~~ To the maximum extent possible, state-owned lands
49 that are appropriate for the development of affordable housing
50 shall be made available for that purpose.

51 (4) IMPLEMENTATION.—The Department of Community Affairs and
52 the Florida Housing Finance Corporation in carrying out the
53 strategy articulated herein shall have the following duties:

54 (c) The Shimberg Center for Affordable Housing, in
55 consultation with the Department of Community Affairs and the
56 Florida Housing Finance Corporation, shall review and evaluate
57 existing housing rehabilitation, production, and finance
58 programs to determine their consistency with relevant policies
59 in this section and identify the needs of specific populations,
60 including, but not limited to, elderly persons, ~~and~~ handicapped
61 persons, and persons with special needs, and shall recommend
62 statutory modifications where appropriate. The Shimberg Center
63 for Affordable Housing, in consultation with the Department of
64 Community Affairs and the corporation, shall also evaluate the
65 degree of coordination between state housing programs, and
66 between state, federal, and local housing activities, and shall
67 recommend improved program linkages. The recommendations
68 required above and a report of any programmatic modifications
69 made as a result of these policies shall be included in the



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70 housing report required by s. 420.6075, beginning December 31,
71 1991, and every 5 years thereafter.

72 Section 2. Section 420.0004, Florida Statutes, is amended
73 to read:

74 420.0004 Definitions.—As used in this part, unless the
75 context otherwise indicates:

76 (1) "Adjusted for family size" means adjusted in a manner
77 which results in an income eligibility level which is lower for
78 households with fewer than four people, or higher for households
79 with more than four people, than the base income eligibility
80 determined as provided in subsection (9) ~~(8)~~, subsection (11)
81 ~~(10)~~, subsection (12) ~~(11)~~, or subsection (17) ~~(15)~~, based upon
82 a formula as established by the United States Department of
83 Housing and Urban Development.

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

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

96 (4) "Corporation" means the Florida Housing Finance
97 Corporation.

98 (5) "Community-based organization" or "nonprofit



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99 organization" means a private corporation organized under
100 chapter 617 to assist in the provision of housing and related
101 services on a not-for-profit basis and which is acceptable to
102 federal and state agencies and financial institutions as a
103 sponsor of low-income housing.

104 (6) "Department" means the Department of Community Affairs.

105 (7) "Disabling condition" means a diagnosable substance
106 abuse disorder, serious mental illness, developmental
107 disability, or chronic physical illness or disability, or the
108 co-occurrence of two or more of these conditions, and a
109 determination that the condition is:

110 (a) Expected to be of long-continued and indefinite
111 duration; and

112 (b) Not expected to impair the ability of the person with
113 special needs to live independently with appropriate supports.

114 (8)-(7) "Elderly" describes persons 62 years of age or
115 older.

116 (9)-(8) "Extremely-low-income persons" means one or more
117 natural persons or a family whose total annual household income
118 does not exceed 30 percent of the median annual adjusted gross
119 income for households within the state. The Florida Housing
120 Finance Corporation may adjust this amount annually by rule to
121 provide that in lower income counties, extremely low income may
122 exceed 30 percent of area median income and that in higher
123 income counties, extremely low income may be less than 30
124 percent of area median income.

125 (10)-(9) "Local public body" means any county, municipality,
126 or other political subdivision, or any housing authority as
127 provided by chapter 421, which is eligible to sponsor or develop



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128 housing for farmworkers and very-low-income and low-income
129 persons within its jurisdiction.

130 (11)~~(10)~~ "Low-income persons" means one or more natural
131 persons or a family, the total annual adjusted gross household
132 income of which does not exceed 80 percent of the median annual
133 adjusted gross income for households within the state, or 80
134 percent of the median annual adjusted gross income for
135 households within the metropolitan statistical area (MSA) or, if
136 not within an MSA, within the county in which the person or
137 family resides, whichever is greater.

138 (12)~~(11)~~ "Moderate-income persons" means one or more
139 natural persons or a family, the total annual adjusted gross
140 household income of which is less than 120 percent of the median
141 annual adjusted gross income for households within the state, or
142 120 percent of the median annual adjusted gross income for
143 households within the metropolitan statistical area (MSA) or, if
144 not within an MSA, within the county in which the person or
145 family resides, whichever is greater.

146 (13) "Person with special needs" means an adult person
147 requiring independent living services in order to maintain
148 housing or develop independent living skills and who has a
149 disabling condition; a young adult formerly in foster care who
150 is eligible for services under s. 409.1451(5); a survivor of
151 domestic violence as defined in s. 741.28; or a person receiving
152 benefits under the Social Security Disability Insurance (SSDI)
153 program or the Supplemental Security Income (SSI) program or
154 from veterans' disability benefits.

155 (14)~~(12)~~ "Student" means any person not living with his or
156 her parent or guardian who is eligible to be claimed by his or



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157 her parent or guardian as a dependent under the federal income
158 tax code and who is enrolled on at least a half-time basis in a
159 secondary school, career center, community college, college, or
160 university.

161 (15)~~(13)~~ "Substandard" means:

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

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

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

170 (16)~~(14)~~ "Substantial rehabilitation" means repair or
171 restoration of a dwelling unit where the value of such repair or
172 restoration exceeds 40 percent of the value of the dwelling.

173 (17)~~(15)~~ "Very-low-income persons" means one or more
174 natural persons or a family, not including students, the total
175 annual adjusted gross household income of which does not exceed
176 50 percent of the median annual adjusted gross income for
177 households within the state, or 50 percent of the median annual
178 adjusted gross income for households within the metropolitan
179 statistical area (MSA) or, if not within an MSA, within the
180 county in which the person or family resides, whichever is
181 greater.

182 Section 3. Paragraph (a) of subsection (22) and subsection
183 (46) of section 420.507, Florida Statutes, are amended to read:

184 420.507 Powers of the corporation.—The corporation shall
185 have all the powers necessary or convenient to carry out and



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186 effectuate the purposes and provisions of this part, including
187 the following powers which are in addition to all other powers
188 granted by other provisions of this part:

189 (22) To develop and administer the State Apartment
190 Incentive Loan Program. In developing and administering that
191 program, the corporation may:

192 (a) Make first, second, and other subordinated mortgage
193 loans including variable or fixed rate loans subject to
194 contingent interest for all State Apartment Incentive Loans
195 provided for in this chapter based upon available cash flow of
196 the projects. The corporation shall make loans exceeding 25
197 percent of project cost available only to nonprofit
198 organizations and public bodies which are able to secure grants,
199 donations of land, or contributions from other sources and to
200 projects meeting the criteria of subparagraph 1. Mortgage loans
201 shall be made available at the following rates of interest:

202 1. Zero to 3 percent interest for sponsors of projects that
203 set aside at least 80 percent of their total units for residents
204 qualifying as farmworkers as defined in this part, ~~or~~ commercial
205 fishing workers as defined in this part, ~~or~~ the homeless as
206 defined in s. 420.621(4), or persons with special needs as
207 defined in s. 420.0004(13) over the life of the loan.

208 2. Zero to 3 percent interest based on the pro rata share
209 of units set aside for homeless residents or persons with
210 special needs if the total of such units is less than 80 percent
211 of the units in the borrower's project.

212 3. One to 9 percent interest for sponsors of projects
213 targeted at populations other than farmworkers, commercial
214 fishing workers, ~~and~~ the homeless, and persons with special



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215 needs.

216 (46) To require, as a condition of financing a multifamily
217 rental project, that an agreement be recorded in the official
218 records of the county where the real property is located, which
219 requires that the project be used for housing defined as
220 affordable in s. 420.0004(3) by persons defined in s.
221 420.0004(9)~~(8)~~, (11)~~(10)~~, (12)~~(11)~~, and (17)~~(15)~~. Such an
222 agreement is a state land use regulation that limits the highest
223 and best use of the property within the meaning of s.
224 193.011(2).

225 Section 4. Subsection (3) of section 420.5087, Florida
226 Statutes, are amended to read:

227 420.5087 State Apartment Incentive Loan Program.—There is
228 hereby created the State Apartment Incentive Loan Program for
229 the purpose of providing first, second, or other subordinated
230 mortgage loans or loan guarantees to sponsors, including for-
231 profit, nonprofit, and public entities, to provide housing
232 affordable to very-low-income persons.

233 (3) During the first 6 months of loan or loan guarantee
234 availability, program funds shall be reserved for use by
235 sponsors who provide the housing set-aside required in
236 subsection (2) for the tenant groups designated in this
237 subsection. The reservation of funds to each of these groups
238 shall be determined using the most recent statewide very-low-
239 income rental housing market study available at the time of
240 publication of each notice of fund availability required by
241 paragraph (6)(b). The reservation of funds within each notice of
242 fund availability to the tenant groups in paragraphs (a), (b),
243 and (e) ~~(d)~~ may not be less than 10 percent of the funds



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244 available at that time. Any increase in funding required to
245 reach the 10-percent minimum must be taken from the tenant group
246 that has the largest reservation. The reservation of funds
247 within each notice of fund availability to the tenant group in
248 paragraph (c) may not be less than 5 percent of the funds
249 available at that time. The reservation of funds within each
250 notice of fund availability to the tenant group in paragraph (d)
251 may not be more than 10 percent of the funds available at that
252 time. The tenant groups are:
253 (a) Commercial fishing workers and farmworkers;
254 (b) Families;
255 (c) Persons who are homeless;
256 (d) Persons with special needs; and
257 (e) ~~(d)~~ Elderly persons. Ten percent of the amount reserved
258 for the elderly shall be reserved to provide loans to sponsors
259 of housing for the elderly for the purpose of making building
260 preservation, health, or sanitation repairs or improvements
261 which are required by federal, state, or local regulation or
262 code, or lifesafety or security-related repairs or improvements
263 to such housing. Such a loan may not exceed \$750,000 per housing
264 community for the elderly. In order to receive the loan, the
265 sponsor of the housing community must make a commitment to match
266 at least 5 percent of the loan amount to pay the cost of such
267 repair or improvement. The corporation shall establish the rate
268 of interest on the loan, which may not exceed 3 percent, and the
269 term of the loan, which may not exceed 15 years; however, if the
270 lien of the corporation's encumbrance is subordinate to the lien
271 of another mortgagee, then the term may be made coterminous with
272 the longest term of the superior lien. The term of the loan



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273 shall be based on a credit analysis of the applicant. The
274 corporation may forgive indebtedness for a share of the loan
275 attributable to the units in a project reserved for extremely-
276 low-income elderly by nonprofit organizations, as defined in s.
277 420.0004(5), where the project has provided affordable housing
278 to the elderly for 15 years or more. The corporation shall
279 establish, by rule, the procedure and criteria for receiving,
280 evaluating, and competitively ranking all applications for loans
281 under this paragraph. A loan application must include evidence
282 of the first mortgagee's having reviewed and approved the
283 sponsor's intent to apply for a loan. A nonprofit organization
284 or sponsor may not use the proceeds of the loan to pay for
285 administrative costs, routine maintenance, or new construction.

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

288 163.31771 Accessory dwelling units.—

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

290 (d) "Low-income persons" has the same meaning as in s.
291 420.0004 (11) ~~(10)~~.

292 (e) "Moderate-income persons" has the same meaning as in s.
293 420.0004 (12) ~~(11)~~.

294 (f) "Very-low-income persons" has the same meaning as in s.
295 420.0004 (17) ~~(15)~~.

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

298 Section 6. Section 196.1978, Florida Statutes, is amended
299 to read:

300 196.1978 Affordable housing property exemption.—Property
301 used to provide affordable housing serving eligible persons as



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302 defined by s. 159.603(7) and persons meeting income limits
303 specified in s. 420.0004~~(9)-(8)~~, ~~(11)-(10)~~, ~~(12)-(11)~~, and
304 ~~(17)-(15)~~, which property is owned entirely by a nonprofit entity
305 which is qualified as charitable under s. 501(c)(3) of the
306 Internal Revenue Code and which complies with Rev. Proc. 96-32,
307 1996-1 C.B. 717, shall be considered property owned by an exempt
308 entity and used for a charitable purpose, and those portions of
309 the affordable housing property which provide housing to
310 individuals with incomes as defined in s. 420.0004~~(11)-(10)~~ and
311 ~~(17)-(15)~~ shall be exempt from ad valorem taxation to the extent
312 authorized in s. 196.196. All property identified in this
313 section shall comply with the criteria for determination of
314 exempt status to be applied by property appraisers on an annual
315 basis as defined in s. 196.195. The Legislature intends that any
316 property owned by a limited liability company which is
317 disregarded as an entity for federal income tax purposes
318 pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be
319 treated as owned by its sole member.

320 Section 7. Paragraph (o) of subsection (5) of section
321 212.08, Florida Statutes, is amended to read:

322 212.08 Sales, rental, use, consumption, distribution, and
323 storage tax; specified exemptions.—The sale at retail, the
324 rental, the use, the consumption, the distribution, and the
325 storage to be used or consumed in this state of the following
326 are hereby specifically exempt from the tax imposed by this
327 chapter.

328 (5) EXEMPTIONS; ACCOUNT OF USE.—

329 (o) *Building materials in redevelopment projects.*—

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



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331 a. "Building materials" means tangible personal property
332 that becomes a component part of a housing project or a mixed-
333 use project.

334 b. "Housing project" means the conversion of an existing
335 manufacturing or industrial building to housing units in an
336 urban high-crime area, enterprise zone, empowerment zone, Front
337 Porch Community, designated brownfield area, or urban infill
338 area and in which the developer agrees to set aside at least 20
339 percent of the housing units in the project for low-income and
340 moderate-income persons or the construction in a designated
341 brownfield area of affordable housing for persons described in
342 s. 420.0004 ~~(9)-(8)~~, ~~(11)-(10)~~, ~~(12)-(11)~~, or ~~(17)-(15)~~ or in s.
343 159.603(7).

344 c. "Mixed-use project" means the conversion of an existing
345 manufacturing or industrial building to mixed-use units that
346 include artists' studios, art and entertainment services, or
347 other compatible uses. A mixed-use project must be located in an
348 urban high-crime area, enterprise zone, empowerment zone, Front
349 Porch Community, designated brownfield area, or urban infill
350 area, and the developer must agree to set aside at least 20
351 percent of the square footage of the project for low-income and
352 moderate-income housing.

353 d. "Substantially completed" has the same meaning as
354 provided in s. 192.042(1).

355 2. Building materials used in the construction of a housing
356 project or mixed-use project are exempt from the tax imposed by
357 this chapter upon an affirmative showing to the satisfaction of
358 the department that the requirements of this paragraph have been
359 met. This exemption inures to the owner through a refund of



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360 previously paid taxes. To receive this refund, the owner must
361 file an application under oath with the department which
362 includes:

363 a. The name and address of the owner.

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

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

367 d. A certification by the local building code inspector
368 that the project is substantially completed.

369 e. A sworn statement, under penalty of perjury, from the
370 general contractor licensed in this state with whom the owner
371 contracted to construct the project, which statement lists the
372 building materials used in the construction of the project and
373 the actual cost thereof, and the amount of sales tax paid on
374 these materials. If a general contractor was not used, the owner
375 shall provide this information in a sworn statement, under
376 penalty of perjury. Copies of invoices evidencing payment of
377 sales tax must be attached to the sworn statement.

378 3. An application for a refund under this paragraph must be
379 submitted to the department within 6 months after the date the
380 project is deemed to be substantially completed by the local
381 building code inspector. Within 30 working days after receipt of
382 the application, the department shall determine if it meets the
383 requirements of this paragraph. A refund approved pursuant to
384 this paragraph shall be made within 30 days after formal
385 approval of the application by the department.

386 4. The department shall establish by rule an application
387 form and criteria for establishing eligibility for exemption
388 under this paragraph.



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

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

393 215.5586 My Safe Florida Home Program.—There is established
394 within the Department of Financial Services the My Safe Florida
395 Home Program. The department shall provide fiscal
396 accountability, contract management, and strategic leadership
397 for the program, consistent with this section. This section does
398 not create an entitlement for property owners or obligate the
399 state in any way to fund the inspection or retrofitting of
400 residential property in this state. Implementation of this
401 program is subject to annual legislative appropriations. It is
402 the intent of the Legislature that the My Safe Florida Home
403 Program provide inspections for at least 400,000 site-built,
404 single-family, residential properties and provide grants to at
405 least 35,000 applicants before June 30, 2009. The program shall
406 develop and implement a comprehensive and coordinated approach
407 for hurricane damage mitigation that shall include the
408 following:

409 (2) MITIGATION GRANTS.—Financial grants shall be used to
410 encourage single-family, site-built, owner-occupied, residential
411 property owners to retrofit their properties to make them less
412 vulnerable to hurricane damage.

413 (a) To be eligible for a grant for persons who have
414 obtained a completed inspection after May 1, 2007, a residential
415 property must:

416 1. Have been granted a homestead exemption under chapter
417 196.



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418 2. Be a dwelling with an insured value of \$300,000 or less.
419 Homeowners who are low-income persons, as defined in s.
420 420.0004(11)~~(10)~~, are exempt from this requirement.

421 3. Have undergone an acceptable hurricane mitigation
422 inspection.

423 4. Be located in the "wind-borne debris region" as that
424 term is defined in s. 1609.2, International Building Code
425 (2006).

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

428
429 An application for a grant must contain a signed or
430 electronically verified statement made under penalty of perjury
431 that the applicant has submitted only a single application and
432 must have attached documents demonstrating the applicant meets
433 the requirements of this paragraph.

434 (g) Low-income homeowners, as defined in s.
435 420.0004(11)~~(10)~~, who otherwise meet the requirements of
436 paragraphs (a), (c), (e), and (f) are eligible for a grant of up
437 to \$5,000 and are not required to provide a matching amount to
438 receive the grant. Additionally, for low-income homeowners,
439 grant funding may be used for repair to existing structures
440 leading to any of the mitigation improvements provided in
441 paragraph (e), limited to 20 percent of the grant value. The
442 program may accept a certification directly from a low-income
443 homeowner that the homeowner meets the requirements of s.
444 420.0004(11)~~(10)~~ if the homeowner provides such certification in
445 a signed or electronically verified statement made under penalty
446 of perjury.



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447 Section 9. Subsection (19) of section 420.503, Florida
448 Statutes, is amended to read:
449 420.503 Definitions.—As used in this part, the term:
450 (19) "Housing for the elderly" means, for purposes of s.
451 420.5087(3) ~~(e)-(d)~~, any nonprofit housing community that is
452 financed by a mortgage loan made or insured by the United States
453 Department of Housing and Urban Development under s. 202, s. 202
454 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the
455 National Housing Act, as amended, and that is subject to income
456 limitations established by the United States Department of
457 Housing and Urban Development, or any program funded by the
458 Rural Development Agency of the United States Department of
459 Agriculture and subject to income limitations established by the
460 United States Department of Agriculture. A project which
461 qualifies for an exemption under the Fair Housing Act as housing
462 for older persons as defined by s. 760.29(4) shall qualify as
463 housing for the elderly for purposes of s. 420.5087(3) ~~(e)-(d)~~ and
464 for purposes of any loans made pursuant to s. 420.508. In
465 addition, if the corporation adopts a qualified allocation plan
466 pursuant to s. 42(m)(1)(B) of the Internal Revenue Code or any
467 other rules that prioritize projects targeting the elderly for
468 purposes of allocating tax credits pursuant to s. 420.5099 or
469 for purposes of the HOME program under s. 420.5089, a project
470 which qualifies for an exemption under the Fair Housing Act as
471 housing for older persons as defined by s. 760.29(4) shall
472 qualify as a project targeted for the elderly, if the project
473 satisfies the other requirements set forth in this part.
474 Section 10. This act shall take effect July 1, 2009.

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476 ===== T I T L E A M E N D M E N T =====

477 And the title is amended as follows:

478 Delete everything before the enacting clause

479 and insert:

480

481 A bill to be entitled

482 An act relating to affordable housing; amending s.
483 420.0003, F.S.; providing additional policy guidelines
484 under the state housing strategy for the development
485 of programs for housing production or rehabilitation;
486 including the needs of persons with special needs in
487 the strategy's periodic review and report; amending s.
488 420.0004, F.S.; defining the terms "disabling
489 condition" and "person with special needs"; conforming
490 cross-references; amending s. 420.507, F.S.; requiring
491 certain rates of interest to be made available to
492 persons with special needs; conforming a cross-
493 reference; amending s. 420.5087, F.S.; limiting the
494 reservation of funds within each notice of fund
495 availability to the persons with special needs tenant
496 group; including persons with special needs as a
497 tenant group for specified purposes of the State
498 Apartment Incentive Loan Program; requiring a
499 specified review committee to include projects that
500 reserve units for persons with special needs in its
501 evaluation and competitive ranking of applications for
502 the State Apartment Incentive Loan Program; conforming
503 a cross-reference; amending ss. 163.31771, 196.1978,
504 212.08, 215.5586, and 420.503, F.S.; conforming cross-



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references; providing an effective date.