

By Senator Wise

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

21
 22 Be It Enacted by the Legislature of the State of Florida:

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

27 201.15 Distribution of taxes collected.—All taxes collected
 28 under this chapter are subject to the service charge imposed in
 29 s. 215.20(1). Prior to distribution under this section, the

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

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

57 Section 2. Paragraph (e) of subsection (3) and paragraph
58 (c) of subsection (4) of section 420.0003, Florida Statutes, are

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59 amended to read:

60 420.0003 State housing strategy.—

61 (3) POLICIES.—

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

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

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

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

75 4. State money should be used, when possible, as loans
76 rather than grants.

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

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

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

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

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

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

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

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

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

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

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

116 (4) IMPLEMENTATION.—The Department of Community Affairs and

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117 the Florida Housing Finance Corporation in carrying out the
118 strategy articulated herein shall have the following duties:

119 (c) The Shimberg Center for Affordable Housing, in
120 consultation with the Department of Community Affairs and the
121 Florida Housing Finance Corporation, shall review and evaluate
122 existing housing rehabilitation, production, and finance
123 programs to determine their consistency with relevant policies
124 in this section and identify the needs of specific populations,
125 including, but not limited to, elderly persons, ~~and~~ handicapped
126 persons, and persons with special needs, and shall recommend
127 statutory modifications where appropriate. The Shimberg Center
128 for Affordable Housing, in consultation with the Department of
129 Community Affairs and the corporation, shall also evaluate the
130 degree of coordination between state housing programs, and
131 between state, federal, and local housing activities, and shall
132 recommend improved program linkages. The recommendations
133 required above and a report of any programmatic modifications
134 made as a result of these policies shall be included in the
135 housing report required by s. 420.6075, beginning December 31,
136 1991, and every 5 years thereafter.

137 Section 3. Section 420.0004, Florida Statutes, is amended
138 to read:

139 420.0004 Definitions.—As used in this part, unless the
140 context otherwise indicates:

141 (1) "Adjusted for family size" means adjusted in a manner
142 which results in an income eligibility level which is lower for
143 households with fewer than four people, or higher for households
144 with more than four people, than the base income eligibility
145 determined as provided in subsection (9) ~~(8)~~, subsection (11)

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146 ~~(10)~~, subsection (12) ~~(11)~~, or subsection (17) ~~(15)~~, based upon
147 a formula as established by the United States Department of
148 Housing and Urban Development.

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

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

161 (4) "Corporation" means the Florida Housing Finance
162 Corporation.

163 (5) "Community-based organization" or "nonprofit
164 organization" means a private corporation organized under
165 chapter 617 to assist in the provision of housing and related
166 services on a not-for-profit basis and which is acceptable to
167 federal and state agencies and financial institutions as a
168 sponsor of low-income housing.

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

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

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

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

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

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

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

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

198 (11)-(10) "Low-income persons" means one or more natural
199 persons or a family, the total annual adjusted gross household
200 income of which does not exceed 80 percent of the median annual
201 adjusted gross income for households within the state, or 80
202 percent of the median annual adjusted gross income for
203 households within the metropolitan statistical area (MSA) or, if

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204 not within an MSA, within the county in which the person or
205 family resides, whichever is greater.

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

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

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

229 (15)~~(13)~~ "Substandard" means:

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

232 (b) A unit which is in violation of one or more major

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233 sections of an applicable housing code and where such violation
234 poses a serious threat to the health of the occupant; or

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

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

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

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

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

258 (3) During the first 6 months of loan or loan guarantee
259 availability, program funds shall be reserved for use by
260 sponsors who provide the housing set-aside required in
261 subsection (2) for the tenant groups designated in this

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262 subsection. The reservation of funds to each of these groups
263 shall be determined using the most recent statewide very-low-
264 income rental housing market study available at the time of
265 publication of each notice of fund availability required by
266 paragraph (6)(b). The reservation of funds within each notice of
267 fund availability to the tenant groups in paragraphs (a), (b),
268 ~~and~~ (d), and (e) may not be less than 10 percent of the funds
269 available at that time. Any increase in funding required to
270 reach the 10-percent minimum must be taken from the tenant group
271 that has the largest reservation. The reservation of funds
272 within each notice of fund availability to the tenant group in
273 paragraph (c) may not be less than 5 percent of the funds
274 available at that time. The tenant groups are:

- 275 (a) Commercial fishing workers and farmworkers;
276 (b) Families;
277 (c) Persons who are homeless; and
278 (d) Elderly persons. Ten percent of the amount reserved for
279 the elderly shall be reserved to provide loans to sponsors of
280 housing for the elderly for the purpose of making building
281 preservation, health, or sanitation repairs or improvements
282 which are required by federal, state, or local regulation or
283 code, or lifesafety or security-related repairs or improvements
284 to such housing. Such a loan may not exceed \$750,000 per housing
285 community for the elderly. In order to receive the loan, the
286 sponsor of the housing community must make a commitment to match
287 at least 5 percent of the loan amount to pay the cost of such
288 repair or improvement. The corporation shall establish the rate
289 of interest on the loan, which may not exceed 3 percent, and the
290 term of the loan, which may not exceed 15 years; however, if the

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291 lien of the corporation's encumbrance is subordinate to the lien
 292 of another mortgagee, then the term may be made coterminous with
 293 the longest term of the superior lien. The term of the loan
 294 shall be based on a credit analysis of the applicant. The
 295 corporation may forgive indebtedness for a share of the loan
 296 attributable to the units in a project reserved for extremely-
 297 low-income elderly by nonprofit organizations, as defined in s.
 298 420.0004(5), where the project has provided affordable housing
 299 to the elderly for 15 years or more. The corporation shall
 300 establish, by rule, the procedure and criteria for receiving,
 301 evaluating, and competitively ranking all applications for loans
 302 under this paragraph. A loan application must include evidence
 303 of the first mortgagee's having reviewed and approved the
 304 sponsor's intent to apply for a loan. A nonprofit organization
 305 or sponsor may not use the proceeds of the loan to pay for
 306 administrative costs, routine maintenance, or new construction.

307 (e) Persons with special needs, as defined in s.
 308 420.0004(13).

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

311 163.31771 Accessory dwelling units.—

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

313 (d) "Low-income persons" has the same meaning as in s.
 314 420.0004 (11) ~~(10)~~.

315 (e) "Moderate-income persons" has the same meaning as in s.
 316 420.0004 (12) ~~(11)~~.

317 (f) "Very-low-income persons" has the same meaning as in s.
 318 420.0004 (17) ~~(15)~~.

319 (g) "Extremely-low-income persons" has the same meaning as

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320 in s. 420.0004 (9) ~~(8)~~.

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

323 196.1978 Affordable housing property exemption.—Property
324 used to provide affordable housing serving eligible persons as
325 defined by s. 159.603(7) and persons meeting income limits
326 specified in s. 420.0004 (9) ~~(8)~~, (11) ~~(10)~~, (12) ~~(11)~~, and
327 (17) ~~(15)~~, which property is owned entirely by a nonprofit entity
328 which is qualified as charitable under s. 501(c)(3) of the
329 Internal Revenue Code and which complies with Rev. Proc. 96-32,
330 1996-1 C.B. 717, shall be considered property owned by an exempt
331 entity and used for a charitable purpose, and those portions of
332 the affordable housing property which provide housing to
333 individuals with incomes as defined in s. 420.0004 (11) ~~(10)~~ and
334 (17) ~~(15)~~ shall be exempt from ad valorem taxation to the extent
335 authorized in s. 196.196. All property identified in this
336 section shall comply with the criteria for determination of
337 exempt status to be applied by property appraisers on an annual
338 basis as defined in s. 196.195. The Legislature intends that any
339 property owned by a limited liability company which is
340 disregarded as an entity for federal income tax purposes
341 pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be
342 treated as owned by its sole member.

343 Section 7. Paragraph (o) of subsection (5) of section
344 212.08, Florida Statutes, is amended to read:

345 212.08 Sales, rental, use, consumption, distribution, and
346 storage tax; specified exemptions.—The sale at retail, the
347 rental, the use, the consumption, the distribution, and the
348 storage to be used or consumed in this state of the following

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349 are hereby specifically exempt from the tax imposed by this
350 chapter.

351 (5) EXEMPTIONS; ACCOUNT OF USE.—

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

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

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

357 b. "Housing project" means the conversion of an existing
358 manufacturing or industrial building to housing units in an
359 urban high-crime area, enterprise zone, empowerment zone, Front
360 Porch Community, designated brownfield area, or urban infill
361 area and in which the developer agrees to set aside at least 20
362 percent of the housing units in the project for low-income and
363 moderate-income persons or the construction in a designated
364 brownfield area of affordable housing for persons described in
365 s. 420.0004 (9)~~(8)~~, (11)~~(10)~~, (12)~~(11)~~, or (17)~~(15)~~ or in s.
366 159.603(7).

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

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

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

386 a. The name and address of the owner.

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

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

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

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

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

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407 this paragraph shall be made within 30 days after formal
408 approval of the application by the department.

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

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

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

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

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

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

439 1. Have been granted a homestead exemption under chapter
440 196.

441 2. Be a dwelling with an insured value of \$300,000 or less.
442 Homeowners who are low-income persons, as defined in s.
443 420.0004(11)~~(10)~~, are exempt from this requirement.

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

446 4. Be located in the "wind-borne debris region" as that
447 term is defined in s. 1609.2, International Building Code
448 (2006).

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

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

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

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465 program may accept a certification directly from a low-income
466 homeowner that the homeowner meets the requirements of s.
467 420.0004(11)~~(10)~~ if the homeowner provides such certification in
468 a signed or electronically verified statement made under penalty
469 of perjury.

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

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

477 (46) To require, as a condition of financing a multifamily
478 rental project, that an agreement be recorded in the official
479 records of the county where the real property is located, which
480 requires that the project be used for housing defined as
481 affordable in s. 420.0004(3) by persons defined in s.
482 420.0004(9)~~(8)~~, (11)~~(10)~~, (12)~~(11)~~, and (17)~~(15)~~. Such an
483 agreement is a state land use regulation that limits the highest
484 and best use of the property within the meaning of s.
485 193.011(2).

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