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Proposed Committee Substitute by the Committee on Appropriations (Appropriations Subcommittee on Finance and Tax)

1 A bill to be entitled 2 An act relating to community development; amending s. 3 159.603, F.S.; modifying the definition of "qualifying 4 housing development"; amending s. 159.608, F.S.; 5 revising the power of a housing finance authority to 6 make loans directly to eligible persons; amending s. 7 196.1978, F.S.; deleting an ad valorem tax exemption 8 for property owned by certain Florida-based limited 9 partnerships and used for affordable housing for 10 certain income-qualified persons; amending s. 420.507, 11 F.S.; revising the powers of the Florida Housing 12 Finance Corporation; specifying how the corporation will allocate certain funds; amending s. 420.5087, 13 14 F.S.; revising provisions relating to state apartment 15 incentive loans to provide for a competitive 16 evaluation and selection process with respect to loan applications; amending s. 420.511, F.S.; providing 17 18 that the corporation's strategic business plan must be 19 consistent with a long-range program plan relating to 20 affordable housing; deleting a requirement that the 21 corporation compile certain data; revising provisions 2.2 relating to the corporation's development of its long-23 range plan; revising the required contents and 24 information to be included in the corporation's annual 25 report; requiring the corporation to submit separate 26 audited financial statements that include specified 27 information and incorporate certain reports; requiring

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28	the Auditor General to conduct an operational audit of
29	the corporation and provide a written report to the
30	Legislature; amending ss. 420.0003, 420.0006, 420.504,
31	and 420.506, F.S.; conforming provisions to changes
32	made by this act; repealing s. 420.5091, F.S.,
33	relating to the HOPE program; providing for
34	retroactive application; providing an effective date.

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

38 Section 1. Subsection (6) of section 159.603, Florida
39 Statutes, is amended to read:

40 159.603 Definitions.—As used in this part, the following
41 words and terms have the following meanings unless the context
42 indicates another or different meaning or intent.

43 (6) "Qualifying housing development" means any work or improvement located or to be located in this the state, 44 including real property, buildings, and any other real and 45 personal property, designed or intended for the primary purpose 46 47 of providing decent, safe, and sanitary residential housing for 48 four or more families, at least 60 percent of whom are eligible 49 persons, whether new construction, the acquisition of existing residential housing, or the remodeling, improvement, 50 51 rehabilitation, or reconstruction of existing housing, together 52 with such related nonhousing facilities as the authority 53 determines to be necessary, convenient, or desirable.

54 (a) The term includes a housing development that meets the 55 definition of a "qualified low-income housing project" under s. 56 42(g) of the Internal Revenue Code, regardless of whether such

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57 <u>development meets the 60-percent-eligible-persons requirement</u> 58 under this subsection.

(b) The exception provided under paragraph (a) applies to all housing developments that meet the federal definition of "qualified low-income housing project" and all developments that previously qualified under the state definition of "qualifying housing development." Housing finance authorities may enter into regulatory agreement amendments as necessary to accommodate housing developments that qualify under paragraph (a).

66 Section 2. Subsection (8) of section 159.608, Florida 67 Statutes, is amended to read:

68 159.608 Powers of housing finance authorities.—A housing 69 finance authority shall constitute a public body corporate and 70 politic, exercising the public and essential governmental 71 functions set forth in this act, and shall exercise its power to 72 borrow only for the purpose as provided herein:

73 (8) To make loans directly to eligible persons or families 74 who otherwise cannot borrow from conventional lending sources 75 and whose annual income does not exceed 80 percent of the median income based on a family of up to four persons for the county in 76 77 which they seek to purchase a residence. The housing finance 78 authority may adjust the annual income requirements for families 79 of greater than four persons. Such loans must be secured by 80 either first mortgages or subordinated mortgages and must be 81 used to purchase, construct, rehabilitate, or refinance single-82 family residences that have purchase prices that do not exceed 83 the purchase price limits of; however, the purchase price of any residence financed through such a loan may not exceed 90 percent 84 85 of the median sales price for single-family homes in the county

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86 where the borrower's residence is to be located, as mandated by 87 <u>federal law for tax-exempt, single-family bond programs</u>. 88 Section 3. Section 196.1978, Florida Statutes, is amended

89 to read:

196.1978 Affordable housing property exemption.-Property 90 91 used to provide affordable housing to serving eligible persons 92 as defined under by s. 159.603 - (7) and natural persons or families meeting the extremely-low-income, very-low-income, low-93 94 income, or moderate-income limits specified in s. 420.0004, 95 which property is owned entirely by a nonprofit entity that is a 96 corporation not for profit, qualified as charitable under s. 97 501(c)(3) of the Internal Revenue Code and in compliance with Rev. Proc. 96-32, 1996-1 C.B. 717, is or a Florida-based limited 98 99 partnership, the sole general partner of which is a corporation 100 not for profit which is qualified as charitable under s. 101 501(c)(3) of the Internal Revenue Code and which complies with 102 Rev. Proc. 96-32, 1996-1 C.B. 717, shall be considered property owned by an exempt entity and used for a charitable purpose, and 103 104 those portions of the affordable housing property which provide housing to natural persons or families classified as extremely 105 106 low income, very low income, low income, or moderate income 107 under s. 420.0004 are shall be exempt from ad valorem taxation to the extent authorized under in s. 196.196. All property 108 109 identified in this section must shall comply with the criteria 110 provided under s. 196.195 for determining determination of 111 exempt status and to be applied by property appraisers on an 112 annual basis as defined in s. 196.195. The Legislature intends 113 that any property owned by a limited liability company or 114 limited partnership which is disregarded as an entity for

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115 federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be treated as owned by its sole 116 117 member or sole general partner.

Section 4. Paragraph (h) of subsection (22) and subsection 118 (48) of section 420.507, Florida Statutes, are amended to read: 119

120 420.507 Powers of the corporation.-The corporation shall 121 have all the powers necessary or convenient to carry out and 122 effectuate the purposes and provisions of this part, including 123 the following powers, which are in addition to all other powers 124 granted by other provisions of this part:

125 (22) To develop and administer the State Apartment 126 Incentive Loan Program. In developing and administering that 127 program, the corporation may:

128 (h) Establish, by rule, the procedure for evaluating, scoring, and competitively evaluating and selecting ranking all 129 130 applications for funding based on the criteria set forth in s. 131 420.5087(6)(c), + determining actual loan amounts, + making and servicing loans, + and exercising the powers authorized in this 132 133 subsection.

134 (48) To award use up to 10 percent of its annual allocation 135 of low-income housing tax credits, nontaxable revenue bonds, and 136 State Apartment Incentive Loan Program funds appropriated by the Legislature and available to allocate by request for proposals 137 or other competitive solicitation. The corporation shall reserve 138 139 up to 5 percent of each allocation funding for high-priority 140 affordable housing projects, such as housing to support economic 141 development and job-creation initiatives, housing for veterans and their families, and other special needs populations in 142 143 communities throughout the state as determined by the

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144 corporation on an annual basis. The corporation shall reserve an additional 5 percent of each allocation for affordable housing 145 146 projects that target persons who have a disabling condition as 147 defined in s. 420.0004 and their families. These allocations 148 must prioritize projects or initiatives piloting or 149 demonstrating cost effective, best practices that meet the 150 housing needs and preferences of such persons. Any tax credits 151 or funds not allocated because of a lack of eligible projects 152 targeting persons who have a disabling condition shall be 153 distributed by the corporation for high-priority housing 154 projects.

155Section 5. Paragraphs (c) and (f) of subsection (6) of156section 420.5087, Florida Statutes, are amended to read:

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

(6) On all state apartment incentive loans, except loans made to housing communities for the elderly to provide for lifesafety, building preservation, health, sanitation, or security-related repairs or improvements, the following provisions shall apply:

(c) The corporation shall provide by rule for the establishment of a review committee composed of the department and corporation staff and shall establish by rule a scoring system for the competitive evaluation and selection competitive ranking of applications submitted in this program, including,

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173 but not limited to, the following criteria:

Tenant income and demographic targeting objectives of
 the corporation.

176 2. Targeting objectives of the corporation which will 177 ensure an equitable distribution of loans between rural and 178 urban areas.

3. Sponsor's agreement to reserve the units for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, for a time period <u>that</u> <u>exceeds</u> to exceed the minimum required by federal law or the provisions of this part.

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4. Sponsor's agreement to reserve more than:

a. Twenty percent of the units in the project for persons
or families who have incomes that do not exceed 50 percent of
the state or local median income, whichever is higher; or

b. Forty percent of the units in the project for persons or families who have incomes that do not exceed 60 percent of the state or local median income, whichever is higher, without requiring a greater amount of the loans as provided in this section.

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5. Provision for tenant counseling.

194 6. Sponsor's agreement to accept rental assistance195 certificates or vouchers as payment for rent.

196 7. Projects requiring the least amount of a state apartment 197 incentive loan compared to overall project cost, except that the 198 share of the loan attributable to units serving extremely-low-199 income persons <u>must shall</u> be excluded from this requirement.

200 8. Local government contributions and local government201 comprehensive planning and activities that promote affordable



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202 housing.

203 9. Project feasibility.

204 10. Economic viability of the project.

205 11. Commitment of first mortgage financing.

206 12. Sponsor's prior experience.

207 13. Sponsor's ability to proceed with construction.

208 14. Projects that directly implement or assist welfare-to-209 work transitioning.

210 15. Projects that reserve units for extremely-low-income 211 persons.

212 16. Projects that include green building principles, storm-213 resistant construction, or other elements that reduce long-term 214 costs relating to maintenance, utilities, or insurance.

215 17. Job-creation rate of the developer and general216 contractor, as provided in s. 420.507(47).

217 (f) The review committee established by corporation rule 218 pursuant to this subsection shall make recommendations to the board of directors of the corporation regarding program 219 220 participation under the State Apartment Incentive Loan Program. 221 The corporation board shall make the final ranking and the 222 decisions regarding which applicants shall become program 223 participants based on the scores received in the competitive 224 process ranking, further review of applications, and the 225 recommendations of the review committee. The corporation board 226 shall approve or reject applications for loans and shall 227 determine the tentative loan amount available to each applicant 228 selected for participation in the program. The actual loan 229 amount shall be determined pursuant to rule adopted pursuant to 230 s. 420.507(22)(h).

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231 Section 6. Section 420.511, Florida Statutes, is amended to 232 read:

233 420.511 <u>Strategic</u> business plan; <u>long-range program</u> 234 strategic plan; annual report; audited financial statements.-

(1) The corporation shall develop a <u>strategic</u> business plan
 for the provision of affordable housing for the state. The plan
 <u>must be consistent</u> shall not be inconsistent with the <u>long-range</u>
 <u>program</u> strategic plan prepared pursuant to subsection (2) and
 shall contain performance measures and specific performance
 targets for the following:

(a) The ability of low-income and moderate-incomeFloridians to access housing that is decent and affordable.

(b) The continued availability and affordability of housingfinanced by the corporation to target populations.

(c) The availability of affordable financing programs, including equity and debt products, and programs that reduce gaps in conventional financing <u>in order</u>, to increase individual access to housing and stimulate private production of affordable housing.

(d) The establishment and maintenance of efficiencies inthe delivery of affordable housing.

(e) Such other measures as directed by the corporation'sboard of directors.

255 The corporation shall also compile data on the stimulus of 256 economic activity created by the affordable housing finance 257 programs administered by the corporation.

(2) The corporation, in <u>coordination</u> equal partnership with
 the department, shall develop annually <u>develop</u> a <u>long-range</u>

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260 program strategic plan for the provision of affordable housing 261 in this state as Florida as part of the department's agency strategic plan required pursuant to chapter 186. In part, the 262 263 plan must shall include provisions that maximize the abilities 264 of the corporation and the department to implement the state 265 housing strategy established under s. 420.0003, to respond to federal housing initiatives, and to develop programs in a manner 266 267 that is more responsive to the needs of public and private 268 partners. The plan shall be developed on a schedule consistent 269 with that established by s. 186.021. For purposes of this 270 section act, the executive director or his or her designee shall 271 serve as the corporation's representative to achieve a 272 coordinated and integrated planning relationship with the 273 department.

(3) (a) The corporation shall submit to the Governor and the presiding officers of each house of the Legislature, within <u>6</u> 2 months after the end of its fiscal year, a complete and detailed report setting forth <u>the corporation's state and federal program</u> <u>accomplishments using the most recent available data. The report</u> must include, but is not limited to:

280 (a) The following tenant characteristics in existing rental 281 units financed through corporation-administered programs:

1. The number of households served, delineated by income, race, ethnicity, and age of the head of household.

284 <u>2. The number of households served in large, medium, and</u> 285 <u>small counties as defined in s. 420.5087 and the extent to which</u> 286 <u>geographic distribution has been achieved in accordance with s.</u> 287 <u>420.5087.</u>

3. The number of farmworker and commercial-fishing worker

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289	households served.
290	4. The number of homeless households served.
291	5. The number of special needs households served.
292	6. By county, the average rent charged based on unit size.
293	(b) The number of rental units to which resources have been
294	allocated in the last fiscal year, including income and
295	demographic restrictions.
296	(c) The estimated average cost of producing units under
297	each rental or homeownership unit financed under each program in
298	the last fiscal year.
299	(d) By county, the average sales price of homeownership
300	units financed in the last fiscal year.
301	(e) The number of households served by homeownership
302	programs in the last fiscal year, including the income, race,
303	ethnicity, and age of the homeowner of each household.
304	(f) The percentage of homeownership loans that are in
305	foreclosure.
306	(g) The percentage of properties in the corporation's
307	rental portfolio which have an occupancy rate below 90 percent.
308	(h) The amount of economic stimulus created by the
309	affordable housing finance programs administered by the
310	corporation for the most recent year available.
311	(i) For the State Apartment Incentive Loan (SAIL) Program,
312	a comprehensive list of all closed loans outstanding at the end
313	of the most recent fiscal year, including, but not limited to,
314	development name, city, county, developer, set-aside type, set-
315	aside percentage, affordability term, total number of units,
316	number of set-aside units, lien position, original loan amount,
317	loan maturity date, loan balance at close of year, status of

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318 loan, rate of interest, and interest paid.

319 (j) For the Florida Affordable Housing Guarantee Program, a 320 list of all guaranteed loans through the close of the most 321 recent fiscal year, including, but not limited to, development 322 name, city, county, developer, total number of units, issuer of 323 the bonds, loan maturity date, participation in the United 324 States Department of Housing and Urban Development Risk-Sharing 325 Program, original guarantee amount, guarantee amount at the close of the fiscal year, status of guaranteed loans, and total 32.6 327 outstanding Florida Housing Finance Corporation Affordable 328 Housing Guarantee Program revenue bonds at the close of the most 329 recent fiscal year. 330 (k) Any other information the corporation deems 331 appropriate. 332 1. Its operations and accomplishments; 333 2. Its receipts and expenditures during its fiscal year accordance with the categories or classifications established by 334

335 the corporation for its operating and capital outlay purposes;
336 3. Its assets and liabilities at the end of its fiscal year

337 and the status of reserve, special, or other funds;

338 4. A schedule of its bonds outstanding at the end of its
339 fiscal year, together with a statement of the principal amounts
340 of bonds issued and redeemed during the fiscal year; and

341 5. Information relating to the corporation's activities in 342 implementing the provisions of ss. 420.5087, 420.5088, and 343 420.5095.

344 (b) The report shall include, but not be limited to: 345 1. The number of people served, delineated by income, age, 346 family size, and racial characteristics.

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576-03068-13 347 2. The number of units produced under each program. 3. The average cost of producing units under each program. 348 349 4. The average sales price of single family units financed under s. 420.5088. 350 351 5. The average amount of rent charged based on unit size on units financed under s. 420.5087. 352 6. The number of persons in rural communities served under 353 354 each program. 355 7. The number of farmworkers served under each program. 356 8. The number of homeless persons served under each 357 program. 358 9. The number of elderly persons served under each program. 359 10. The extent to which geographic distribution has been 360 achieved in accordance with the provisions of s. 420.5087. 361 11. The success of the Community Workforce Housing Innovation Pilot Program in meeting the housing needs of 362 363 eligible areas. 364 12. Any other information the corporation deems 365 appropriate. 366 (4) Within 6 months after the end of its fiscal year, the 367 corporation shall submit audited financial statements prepared 368 in accordance with generally accepted accounting principles 369 which include all assets, liabilities, revenues, and expenses of 370 the corporation, and a list of all bonds outstanding at the end 371 of its fiscal year. with the annual report required by this 372 section, a copy of an annual financial audit of its accounts and 373 records and an annual compliance The audit must be of its 374 programs conducted by an independent certified public accountant and performed in accordance with generally accepted auditing 375

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376 standards and government auditing standards, and must 377 incorporate all reports, including compliance reports, as 378 required by such auditing standards.

379 (5) The Auditor General shall conduct an operational audit 380 of the accounts and records of the corporation and provide a 381 written report on the audit to the President of the Senate and 382 the Speaker of the House of Representatives by December 1, 2016. 383 Both the corporation's business plan and annual report must 384 shall recognize the different fiscal periods under which the 385 corporation, the state, the Federal Government, and local 386 governments operate.

387 Section 7. Paragraph (b) of subsection (4) of section388 420.0003, Florida Statutes, is amended to read:

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420.0003 State housing strategy.-

(4) IMPLEMENTATION.-The Department of Economic Opportunity
 and the Florida Housing Finance Corporation in carrying out the
 strategy articulated herein shall have the following duties:

(b) The <u>long-range program</u> agency strategic plan of the Department of Economic Opportunity <u>must</u> shall include specific goals, objectives, and strategies that implement the housing policies in this section and shall include the strategic plan for housing production prepared by the corporation pursuant to s. 420.511.

399 Section 8. Section 420.0006, Florida Statutes, is amended 400 to read:

401 420.0006 Authority to contract with corporation; contract 402 requirements; nonperformance.—The executive director of the 403 department shall contract, notwithstanding part I of chapter 404 287, with the Florida Housing Finance Corporation on a multiyear



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405 basis to stimulate, provide, and foster affordable housing in 406 the state. The contract must incorporate the performance 407 measures required by s. 420.511 and must be consistent with the 408 provisions of the corporation's strategic business plan prepared 409 in accordance with s. 420.511. The contract must provide that 410 if, in the event the corporation fails to comply with any of the 411 a performance measure measures required under by s. 420.511, the 412 executive director shall notify the Governor and shall refer the 413 nonperformance to the department's inspector general for review 414 and determination as to whether such failure is due to forces 415 beyond the corporation's control or whether such failure is due 416 to inadequate management of the corporation's resources. 417 Advances shall continue to be made pursuant to s. 420.0005 418 during the pendency of the review by the department's inspector general. If such failure is due to outside forces, it may shall 419 420 not be deemed a violation of the contract. If such failure is 421 due to inadequate management, the department's inspector general 422 shall provide recommendations regarding solutions. The Governor 423 may is authorized to resolve any differences of opinion with 424 respect to performance under the contract and may request that 425 advances continue in the event of a failure under the contract due to inadequate management. The Chief Financial Officer shall 426 427 approve the request absent a finding by the Chief Financial 428 Officer that continuing such advances would adversely impact the 429 state; however, in any event the Chief Financial Officer shall 430 provide advances sufficient to meet the debt service 431 requirements of the corporation and sufficient to fund contracts 432 committing funds from the State Housing Trust Fund if so long as 433 such contracts are in accordance with the laws of this state.

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434 Section 9. Subsection (1) of section 420.504, Florida 435 Statutes, is amended to read:

436 420.504 Public corporation; creation, membership, terms,437 expenses.-

438 (1) There is created within the Department of Economic 439 Opportunity A public corporation and a public body corporate and 440 politic, to be known as the "Florida Housing Finance 441 Corporation," is created within the Department of Economic 442 Opportunity."Florida Housing Finance Corporation." It is 443 declared to be the intent of and constitutional construction by 444 the Legislature that the Florida Housing Finance Corporation 445 constitutes an entrepreneurial public corporation organized to 446 provide and promote the public welfare by administering the 447 governmental function of financing or refinancing housing and related facilities in this state Florida and that the 448 449 corporation is not a department of the executive branch of state 450 government within the scope and meaning of s. 6, Art. IV of the 451 State Constitution, but is functionally related to the 452 Department of Economic Opportunity in which it is placed. The 453 executive function of state government to be performed by the 454 executive director of the Department of Economic Opportunity in 455 the conduct of the business of the Florida Housing Finance 456 Corporation must be performed pursuant to a contract to monitor 457 and set performance standards for the implementation of the 458 business plan for the provision of housing approved for the 459 corporation as provided in s. 420.0006. This contract must shall 460 include the performance standards for the provision of 461 affordable housing in this state Florida established in the 462 strategic business plan described in s. 420.511.

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463 Section 10. Subsection (1) of section 420.506, Florida 464 Statutes, is amended to read:

465 420.506 Executive director; agents and employees; inspector 466 general.-

467 (1) The appointment and removal of an executive director 468 shall be by the executive director of the Department of Economic 469 Opportunity, with the advice and consent of the corporation's 470 board of directors. The executive director shall employ legal 471 and technical experts and such other agents and employees, 472 permanent and temporary, as the corporation may require, and 473 shall communicate with and provide information to the 474 Legislature with respect to the corporation's activities. The 475 board is authorized, Notwithstanding the provisions of s. 476 216.262, the board may to develop and implement rules regarding 477 the employment of employees of the corporation and service providers, including legal counsel. The board of directors of 478 479 the corporation is entitled to establish travel procedures and 480 guidelines for employees of the corporation, subject to s. 481 112.061(6) and (7). The executive director's office and the 482 corporation's files and records must be located in Leon County. 483 Section 11. Section 420.5091, Florida Statutes, is

484 repealed.

485 Section 12. This act shall take effect upon becoming a law and shall first apply to the 2013 ad valorem tax rolls. 486