



518736

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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Transportation, Tourism, and
Economic Development)

1 A bill to be entitled
2 An act relating to the Florida Housing Finance
3 Corporation; amending s. 420.503, F.S.; defining the
4 terms "bona fide contract" and "qualified contract"
5 for purposes of the Florida Housing Finance
6 Corporation Act; amending s. 420.5087, F.S.; deleting
7 certain limitations and restrictions on, and
8 requirements for, loans made by the corporation to
9 sponsors of housing for the elderly under the State
10 Apartment Incentive Loan Program; deleting the
11 authority of the corporation to forgive certain
12 indebtedness; deleting provisions relating to loan
13 applications; amending s. 420.509, F.S.; designating
14 the corporation, rather than the State Board of
15 Administration, as the state fiscal agency to make
16 determinations in connection with specified bonds;
17 authorizing the corporation's board of directors,
18 rather than the State Board of Administration, to
19 delegate to its executive director the authority and
20 power to perform that function; requiring the
21 executive director to annually report specified
22 information to the board of directors, rather than the
23 State Board of Administration; revising applicable
24 interest rate limitations on bonds of the corporation;
25 amending s. 420.5099, F.S.; providing construction
26 relating to low-income tax credit developments if a



518736

576-02675-22

27 qualified contract does not close for specified
28 reasons; providing requirements for the corporation
29 and an owner if a qualified contract does not close
30 for any other reason; providing construction if no
31 other qualified contract is presented to the owner
32 within a certain period; amending s. 420.5092, F.S.;
33 conforming a provision to changes made by the act;
34 amending s. 420.628, F.S.; conforming a cross-
35 reference; providing an effective date.
36

37 Be It Enacted by the Legislature of the State of Florida:
38

39 Section 1. Present subsections (4) through (34) and (35)
40 through (43) of section 420.503, Florida Statutes, are
41 redesignated as subsections (5) through (35) and (37) through
42 (45), respectively, new subsections (4) and (36) are added to
43 that section, and present subsection (15) of that section is
44 amended, to read:

45 420.503 Definitions.—As used in this part, the term:

46 (4) "Bona fide contract" means a complete and negotiated
47 commercially reasonable contract for sale signed by the owner
48 and the purchaser which states that final acceptance of the
49 contract is contingent upon approval by the corporation and
50 which includes:

51 (a) A requirement for the purchaser to make an initial
52 nonrefundable earnest money deposit of at least \$50,000, to be
53 placed in escrow, unless waived in writing by the owner; and

54 (b) A requirement for the purchaser to make a second
55 nonrefundable earnest money deposit equal to 3 percent of the



518736

576-02675-22

56 qualified contract price within 15 business days after the end
57 of the due diligence period, unless waived in writing by the
58 owner and subject to any rights reserved by the purchaser in the
59 event of the owner's failure to deliver insurable title or in
60 the event of the owner's default.

61
62 A bona fide contract may require that the initial earnest money
63 deposit and the second earnest money deposit be refundable in
64 the event of the owner's failure to deliver insurable title at
65 closing; the owner's termination of a fully executed contract
66 due to a reason other than the default of the purchaser, or as
67 may be provided for in the contract; or the owner's default.

68 (16) ~~(15)~~ "Elderly" means persons 62 years of age or older;
69 however, this definition does not prohibit housing from being
70 deemed housing for the elderly as defined in subsection (21)
71 ~~(20)~~ if such housing otherwise meets the requirements of
72 subsection (21) ~~(20)~~.

73 (36) "Qualified contract" has the same meaning as in 26
74 U.S.C. s. 42(h)(6)(F) in effect on the date of the preliminary
75 determination certificate for the low-income housing tax credits
76 for the development that is the subject of the qualified
77 contract request. The corporation shall deem a bona fide
78 contract to be a qualified contract at the time the second
79 earnest money deposit is deposited in escrow in accordance with
80 the terms of the bona fide contract and, in such event, the
81 corporation is deemed to have fulfilled its responsibility to
82 present the owner with a qualified contract.

83 Section 2. Subsection (3) of section 420.5087, Florida
84 Statutes, is amended to read:



518736

576-02675-22

85 420.5087 State Apartment Incentive Loan Program.—There is
86 hereby created the State Apartment Incentive Loan Program for
87 the purpose of providing first, second, or other subordinated
88 mortgage loans or loan guarantees to sponsors, including for-
89 profit, nonprofit, and public entities, to provide housing
90 affordable to very-low-income persons.

91 (3) During the first 6 months of loan or loan guarantee
92 availability, program funds shall be made available for use by
93 sponsors who provide the housing set-aside required in
94 subsection (2) for the tenant groups designated in this
95 subsection. The funds made available to each of these groups
96 shall be determined using the most recent statewide very-low-
97 income rental housing market study available at the time of
98 publication of each notice of fund availability required by
99 paragraph (6)(b). The funds made available within each notice of
100 fund availability to the tenant groups in paragraphs (b)-(e) may
101 not be less than 10 percent of the funds available at that time.
102 Any increase in funding required to reach the required minimum
103 must be taken from the tenant group that would receive the
104 largest percentage of available funds in accordance with the
105 study. The funds made available within each notice of fund
106 availability to the tenant group in paragraph (a) may not be
107 less than 5 percent of the funds available at that time. The
108 tenant groups are:

- 109 (a) Commercial fishing workers and farmworkers;
- 110 (b) Families;
- 111 (c) Persons who are homeless;
- 112 (d) Persons with special needs; and
- 113 (e) Elderly persons. Ten percent of the amount made



518736

576-02675-22

114 available for the elderly shall provide loans to sponsors of
115 housing for the elderly for the purpose of making building
116 preservation, health, or sanitation repairs or improvements
117 which are required by federal, state, or local regulation or
118 code, or lifesafety or security-related repairs or improvements
119 to such housing. ~~Such a loan may not exceed \$750,000 per housing~~
120 ~~community for the elderly. In order to receive the loan, the~~
121 ~~sponsor of the housing community must make a commitment to match~~
122 ~~at least 5 percent of the loan amount to pay the cost of such~~
123 ~~repair or improvement. The corporation shall establish the rate~~
124 ~~of interest on the loan, which may not exceed 3 percent, and the~~
125 ~~term of the loan, which may not exceed 15 years; however, if the~~
126 ~~lien of the corporation's encumbrance is subordinate to the lien~~
127 ~~of another mortgagee, then the term may be made coterminous with~~
128 ~~the longest term of the superior lien. The term of the loan~~
129 ~~shall be based on a credit analysis of the applicant. The~~
130 ~~corporation may forgive indebtedness for a share of the loan~~
131 ~~attributable to the units in a project reserved for extremely-~~
132 ~~low-income elderly by nonprofit organizations, as defined in s.~~
133 ~~420.0004(5), where the project has provided affordable housing~~
134 ~~to the elderly for 15 years or more. The corporation shall~~
135 ~~establish, by rule, the procedure and criteria for receiving,~~
136 ~~evaluating, and competitively ranking all applications for loans~~
137 ~~under this paragraph. A loan application must include evidence~~
138 ~~of the first mortgagee's having reviewed and approved the~~
139 ~~sponsor's intent to apply for a loan. A nonprofit organization~~
140 ~~or sponsor may not use the proceeds of the loan to pay for~~
141 ~~administrative costs, routine maintenance, or new construction.~~

142 Section 3. Subsections (2) and (4) of section 420.509,



518736

576-02675-22

143 Florida Statutes, are amended to read:

144 420.509 Revenue bonds.—

145 (2) The corporation ~~State Board of Administration~~ is
146 designated as the state fiscal agency to make the determinations
147 required by s. 16, Art. VII of the State Constitution in
148 connection with the issuance of such bonds that in no state
149 fiscal year will the debt service requirements of the bonds
150 proposed to be issued and all other bonds secured by the same
151 pledged revenues exceed the pledged revenues available for such
152 debt service requirements. The corporation's board of directors
153 ~~State Board of Administration~~ may delegate to its executive
154 director the authority and power to perform that function
155 ~~without further review of the agency~~. The determinations
156 pursuant to this subsection ~~paragraph~~ are limited to a review of
157 the matters essential to making the determinations required by
158 s. 16, Art. VII of the State Constitution. The executive
159 director shall report annually to the board ~~State Board of~~
160 ~~Administration~~ and the Legislature regarding the number of bond
161 issues considered and the determination with respect thereto.

162 (4) Bonds of the corporation may:

163 (a) Bear interest at a rate or rates not exceeding the
164 interest rate limitation set forth in s. 159.825 or s. 215.84,
165 as applicable ~~s. 215.84(3), unless the State Board of~~
166 ~~Administration authorizes an interest rate in excess of such~~
167 ~~maximum;~~

168 (b) Have such provisions for payment at maturity and
169 redemption before maturity at such time or times and at such
170 price or prices; and

171 (c) Be payable at such place or places within or without



518736

576-02675-22

172 the state as the board determines by resolution.

173 Section 4. Present subsection (7) of section 420.5099,
174 Florida Statutes, is redesignated as subsection (8), and a new
175 subsection (7) is added to that section, to read:

176 420.5099 Allocation of the low-income housing tax credit.—

177 (7) For the further purpose of implementing this program in
178 this state, if a qualified contract does not close due to a
179 default of the owner, the termination by the owner due to a
180 reason other than the purchaser's default, or as otherwise
181 provided for in the bona fide contract, the development must
182 remain subject to the extended use agreement, and the owner is
183 deemed to have waived any right or option to submit another
184 qualified contract request for the development. If a qualified
185 contract does not close for any other reason, the corporation
186 must continue to seek offers at the qualified contract price
187 through the end of the 1-year period, and the owner's obligation
188 to cooperate in the marketing of the project must continue. If
189 no other qualified contract is presented to the owner during the
190 1-year period, the project must be treated as if no qualified
191 contract had been presented, and the extended use period is
192 terminated.

193 Section 5. Paragraph (b) of subsection (6) of section
194 420.5092, Florida Statutes, is amended to read:

195 420.5092 Florida Affordable Housing Guarantee Program.—

196 (6)

197 (b) If the claims payment obligations under affordable
198 housing guarantees from amounts on deposit in the guarantee fund
199 would cause the claims paying rating assigned to the guarantee
200 fund to be less than the third-highest rating classification of



518736

576-02675-22

201 any nationally recognized rating service, which classifications
202 being consistent with s. 215.84(3) ~~and rules adopted thereto by~~
203 ~~the State Board of Administration~~, the corporation shall certify
204 to the Chief Financial Officer the amount of such claims payment
205 obligations. Upon receipt of such certification, the Chief
206 Financial Officer shall transfer to the guarantee fund, from the
207 first available taxes distributed to the State Housing Trust
208 Fund pursuant to s. 201.15(4)(c) and (d) during the ensuing
209 state fiscal year, the amount certified as necessary to meet
210 such obligations, such transfer to be subordinate to any
211 transfer referenced in paragraph (a) and not to exceed 50
212 percent of the amounts distributed to the State Housing Trust
213 Fund pursuant to s. 201.15(4)(c) and (d) during the preceding
214 state fiscal year.

215 Section 6. Subsection (2) of section 420.628, Florida
216 Statutes, is amended to read:

217 420.628 Affordable housing for children and young adults
218 leaving foster care; legislative findings and intent.—

219 (2) Young adults who leave the child welfare system meet
220 the definition of eligible persons under ss. 420.503(18) and
221 420.9071(11) ~~ss. 420.503(17) and 420.9071(11)~~ for affordable
222 housing, and are encouraged to participate in federal, state,
223 and local affordable housing programs. Students deemed to be
224 eligible occupants under 26 U.S.C. s. 42(i)(3)(D) shall be
225 considered eligible persons for purposes of all projects funded
226 under this chapter.

227 Section 7. This act shall take effect July 1, 2022.