

By the Committee on Appropriations; and Senator Rodriguez

576-03529-22

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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  
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

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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 certain and unambiguous  
47 offer to purchase the development for an amount equaling or  
48 exceeding the qualified contract purchase price which is made in  
49 good faith by a qualified purchaser with the intent that such  
50 offer result in the execution of an enforceable, valid, and  
51 binding contract to purchase and which includes:

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

55 (b) A requirement for the purchaser to make a second  
56 nonrefundable earnest money deposit equal to 3 percent of the  
57 qualified contract price within 15 business days after the end  
58 of the due diligence period, unless waived in writing by the

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59 owner and subject to any rights reserved by the purchaser in the  
60 event of the owner's failure to deliver insurable title or in  
61 the event of the owner's default.

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

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

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

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

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

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

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

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

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

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146 Florida Statutes, are amended to read:

147 420.509 Revenue bonds.—

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

165 (4) Bonds of the corporation may:

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

171 (b) Have such provisions for payment at maturity and  
172 redemption before maturity at such time or times and at such  
173 price or prices; and

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

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175 the state as the board determines by resolution.

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

179 420.5099 Allocation of the low-income housing tax credit.—

180 (7) For the further purpose of implementing this program in  
181 this state, if a qualified contract does not close due to a  
182 default of the owner, the termination by the owner due to a  
183 reason other than the purchaser's default, or as otherwise  
184 provided for in the bona fide contract, the development must  
185 remain subject to the extended use agreement, and the owner is  
186 deemed to have waived any right or option to submit another  
187 qualified contract request for the development. If a qualified  
188 contract does not close for any other reason, the corporation  
189 must continue to seek offers at the qualified contract price  
190 through the end of the 1-year period, and the owner's obligation  
191 to cooperate in the marketing of the project must continue. If  
192 no other qualified contract is presented to the owner during the  
193 1-year period, the project must be treated as if no qualified  
194 contract had been presented, and the extended use period is  
195 terminated.

196 Section 5. Paragraph (b) of subsection (6) of section  
197 420.5092, Florida Statutes, is amended to read:

198 420.5092 Florida Affordable Housing Guarantee Program.—

199 (6)

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

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

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

220 420.628 Affordable housing for children and young adults  
221 leaving foster care; legislative findings and intent.—

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

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