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1
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.