

Committee Substitute for
Committee Substitute for Senate Bill No. 2578

An act relating to neighborhood revitalization; amending s. 212.08, F.S.; providing an exemption from the tax on sales, use, and other transactions for building materials used in the construction of certain single-family homes located in an enterprise zone, empowerment zone, or Front Porch Florida Community; providing an exemption from the tax on sales, use, and other transactions for building materials used in the construction of specified redevelopment projects; providing requirements for refund applications; providing for rules; directing the Department of Community Affairs to recommend certain economic incentives and propose modifications to the Brownfields Redevelopment Act for consideration by the Legislature; amending s. 159.805, F.S.; revising procedures for obtaining allocations of private activity bonds; amending s. 159.806, F.S.; specifying use of Florida First Business allocation pool for priority projects before using regional allocation pools; amending s. 159.807, F.S.; requiring availability of the state allocation pool for certain purposes; amending s. 159.8083, F.S.; clarifying preservation of allocations for certain Florida First Business projects; amending s. 159.809, F.S.; clarifying recapture by the Florida First Business allocation pool of portions of certain unused allocations; amending s. 159.81, F.S.; providing for granting requests for carryforward of certain allocations relating to Florida First Business projects under certain circumstances; amending s. 196.1978, F.S.; expanding the classes of certain low-income housing property as property owned by an exempt entity and used for charitable purposes; amending s. 420.507, F.S.; providing special powers of the corporation with respect to reservation of future allocation or funding and designation of private activity bond allocation; amending s. 420.5099, F.S.; correcting an administrative rule cross reference; amending s. 420.526, F.S.; revising provisions of the Predevelopment Loan Program to provide for targeting of funds and forgiveness of loans under certain circumstances; amending s. 420.609, F.S.; requiring the corporation to assist the Affordable Housing Study Commission for certain purposes; requiring the commission to provide certain commission recommendations to the corporation; changing the date of submittal for the commission's report; revising the commission's recommended studies requirements; amending s. 420.9071, F.S.; revising certain definitions; amending s. 420.9075, F.S.; revising entities authorized to monitor and determine tenant eligibility under local housing assistance plans; revising criteria for eligibility awards under such plans; creating s. 760.26, F.S.; prohibiting discrimination in land use decisions and in permitting of development; establishing the State Farmworker Housing Pilot Loan Program; providing for administration by the Florida Housing Finance Corporation; providing sponsor requirements; requiring the corporation to issue a request for proposals for loan applications for certain purposes; requiring the corporation to establish a loan distribution mechanism; providing eligible

loan applicant requirements; providing for establishment of an application review committee; providing criteria for loan applications; providing duties and responsibilities of the corporation and review committee; providing requirements for such loans; providing procedures and requirements for loan defaults; requiring the corporation to contract with the Florida Farmworker Housing Coalition, Inc., for certain purposes; requiring a report to the Governor and Legislature; providing report requirements; authorizing the corporation to adopt rules; preserving certain exemptions for certain entities; providing effective dates.

WHEREAS, Florida's urban-core neighborhoods continue to have inadequate supplies of affordable housing units, and

WHEREAS, these same neighborhoods contain vacant or abandoned industrial and manufacturing facilities, and

WHEREAS, vacant and dilapidated structures can have a blighting influence on the neighborhood, and

WHEREAS, the opportunity exists to convert these vacant or abandoned industrial and manufacturing facilities into alternative housing options, such as loft apartments, and

WHEREAS, the opportunity exists to convert these vacant or abandoned industrial and manufacturing facilities into mixed-use facilities that include businesses in the art, entertainment, and related fields, thereby attracting tourists and other visitors to the neighborhoods and encouraging individuals who work in such fields to reside in those neighborhoods, and

WHEREAS, the Legislature finds that the state should encourage adaptive reuse of existing buildings in these urban-core neighborhoods, NOW, THEREFORE,

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

Section 1. Paragraphs (n) and (o) are added to subsection (5) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(n) Materials for construction of single-family homes in certain areas.—

1. As used in this paragraph, the term:

a. "Building materials" means tangible personal property that becomes a component part of a qualified home.

b. "Qualified home" means a single-family home having an appraised value of no more than \$160,000 which is located in an enterprise zone, empowerment zone, or Front Porch Florida Community and which is constructed and occupied by the owner thereof for residential purposes.

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

2. Building materials used in the construction of a qualified home and the costs of labor associated with the construction of a qualified home are exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the requirements of this paragraph have been met. This exemption inures to the owner through a refund of previously paid taxes. To receive this refund, the owner must file an application under oath with the department which includes:

a. The name and address of the owner.

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

c. A copy of the building permit issued for the home.

d. A certification by the local building inspector that the home is substantially completed.

e. A sworn statement, under penalty of perjury, from the general contractor licensed in this state with whom the owner contracted to construct the home, which statement lists the building materials used in the construction of the home and the actual cost thereof, the labor costs associated with such construction, and the amount of sales tax paid on these materials and labor costs. If a general contractor was not used, the owner shall provide this information in a sworn statement, under penalty of perjury. Copies of invoices evidencing payment of sales tax must be attached to the sworn statement.

f. A sworn statement, under penalty of perjury, from the owner affirming that he or she is occupying the home for residential purposes.

3. An application for a refund under this paragraph must be submitted to the department within 6 months after the date the home is deemed to be substantially completed by the local building inspector. Within 30 working days after receipt of the application, the department shall determine if it meets the requirements of this paragraph. A refund approved pursuant to this paragraph shall be made within 30 days after formal approval of the application by the department. The provisions of s. 212.095 do not apply to any refund application made under this paragraph.

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

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

(o) Building materials in redevelopment projects.—

1. As used in this paragraph, the term:

a. “Building materials” means tangible personal property that becomes a component part of a housing project or a mixed-use project.

b. “Housing project” means the conversion of an existing manufacturing or industrial building to housing units in an urban high-crime area, enterprise zone, empowerment zone, Front Porch Community, designated brownfield area, or urban infill area and in which the developer agrees to set aside at least 20 percent of the housing units in the project for low-income and moderate-income persons.

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

d. “Substantially completed” has the same meaning as provided in s. 192.042(1).

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

a. The name and address of the owner.

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

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

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

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

3. An application for a refund under this paragraph must be submitted to the department within 6 months after the date the project is deemed to

be substantially completed by the local building inspector. Within 30 working days after receipt of the application, the department shall determine if it meets the requirements of this paragraph. A refund approved pursuant to this paragraph shall be made within 30 days after formal approval of the application by the department. The provisions of s. 212.095 do not apply to any refund application made under this paragraph.

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

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

Section 2. The Department of Community Affairs, in conjunction with the Office of Tourism, Trade, and Economic Development, the Office of Urban Opportunities, and Enterprise Florida, Inc., shall recommend new economic incentives or revisions to existing economic incentives in order to promote the reuse of vacant industrial and manufacturing facilities for affordable housing and mixed-use development. The report must also identify any state regulatory or programmatic barriers to the reuse of such facilities. The department shall submit a report to the President of the Senate and the Speaker of the House of Representatives containing its recommendations by January 31, 2001. Based upon consultation with the Department of Environmental Protection, the department shall include, as a component of the report, any recommended modifications to the Brownfields Redevelopment Act, sections 376.77-376.85, Florida Statutes, for revising liability protection or economic incentives under the act to promote reuse of such facilities.

Section 3. Effective January 1, 2001, subsections (2) and (3) and paragraph (a) of subsection (5) of section 159.805, Florida Statutes, are amended to read:

159.805 Procedures for obtaining allocations; requirements; limitations on allocations; issuance reports.—

(2) Any written confirmation issued by the director pursuant to subsection (1) ceases to be effective unless the bonds to which that confirmation applies have been issued by the agency and written notice of such issuance has been provided to the director within 155 ~~90~~ calendar days after the date the confirmation was issued or December 29, whichever occurs first.

(3) Upon the expiration of the confirmation or at any time the agency decides the allocation is no longer necessary, but, in any event, not later than the 160th ~~95th~~ calendar day after the date the confirmation was issued, the agency shall notify the division, by overnight common carrier delivery service, of its failure to issue any bonds pursuant to the written confirmation. Such notice of failure to issue shall be filed with the division and the allocation provided in the expired confirmation shall be made available for reallocation pursuant to this part. Upon determining that it will not be using allocation for mortgage credit certificates, the issuer will notify the division in writing within 5 business days that such allocation for mortgage credit certificates, referencing the dollar amount, will not be used, thereby allowing the division to reallocate such amounts.

(5)(a) When bonds with a written confirmation of an allocation are issued, the agency issuing such bonds, or its designee, shall provide the division with same-day telephonic notice of such issuance, the principal amount of bonds issued, and the availability of any excess unissued allocation. On the day of issuance of the bonds, the agency, or its designee, shall send a written issuance report to the division to arrive no later than the following business day ~~by overnight common carrier delivery service~~ containing the information described in paragraph (b). At issuance, any excess allocation unissued, except in the case of a project that received an allocation of \$50 million or more, immediately reverts to the pool from which the allocation was made, except that, after June 30 of such year, it reverts to the state allocation pool and shall be made available for reallocation. Except for allocations for which an election has been made to issue mortgage credit certificates, any allocation made under this part is contingent upon the filing of the issuance report ~~by overnight common carrier delivery service~~ with the division no later than the following business day.

Section 4. Effective January 1, 2001, subsection (1) of section 159.806, Florida Statutes, is amended to read:

159.806 Regional allocation pools.—

(1) Each region listed in s. 159.804(2) has an allocation pool for issuing written confirmations of allocation for private activity bonds. In issuing such written confirmations, the division must first use the allocation pool for the region in which the agency issuing such bonds or on whose behalf such bonds are being issued is located, except prior to ~~June~~ April 1, when the state allocation pool ~~or the Florida First Business allocation pool~~ must be used to finance priority projects until such allocation is exhausted unless the agency requests an allocation for a priority project from the regional allocation pool. Unless otherwise agreed to by the affected agencies, when such bonds are to be issued by an agency whose boundaries include more than one region, the division must first issue an allocation from the allocation pool for the region in which the project is to be located.

Section 5. Effective January 1, 2001, subsection (2) of section 159.807, Florida Statutes, is amended to read:

159.807 State allocation pool.—

(2) Except as provided in subsection (1), prior to ~~June~~ April 1 of each year, the state allocation pool shall be available solely to provide written confirmations for private activity bonds to finance priority projects except manufacturing facilities. To obtain a written allocation for private activity bonds to finance a priority project from the state allocation pool prior to ~~June~~ April 1 of each year, the notice of intent to issue must be filed with the division no later than ~~May~~ March 1. If the total amount requested in notices of intent to issue for priority projects does not exceed the total amount of the state allocation pool, the director shall issue written confirmation for each notice of intent to issue by ~~May~~ March 15. If the total amount requested in notices of intent to issue private activity bonds for priority projects exceeds the total amount of the state allocation pool, the director shall forward all timely notices of intent to issue received by the division for those projects

to the Governor who shall render a decision by June ~~April~~ 1 as to which notices of intent to issue are to receive written confirmations. If additional portions of the state volume limitation of private activity bonds permitted to be issued in the state are subsequently placed into the state allocation pool, the remainder of the timely notices of intent to issue for priority projects shall be provided written confirmations in the order established by the Governor prior to any other notices of intent to issue filed with the division.

Section 6. Effective January 1, 2001, section 159.809, Florida Statutes, is amended to read:

159.809 Recapture of unused amounts.—

(1) On June ~~April~~ 1 of each year, any portion of each ~~initial~~ allocation made pursuant to s. 159.804(4) for which the division has not issued a written confirmation ~~has not been issued by the director or for which an issuance report for bonds utilizing such an allocation has not been received by the division prior to such date~~ shall be added to the Florida First Business allocation pool.

(2) On July 1 of each year, any portion of each ~~initial~~ allocation made pursuant to s. 159.804(2) ~~or (3)~~ for which the division has not issued a written confirmation ~~has not been issued by the director or for which an issuance report for bonds utilizing such an allocation has not been received by the division prior to that date~~ shall be added to the Florida First Business allocation pool. On July 1 of each year, any portion of each allocation made pursuant to s. 159.804(3) for which the division has not issued a written confirmation or has not received an issuance report shall be added to the Florida First Business allocation pool. On and after July 2 of each year, any portion of such allocations for which a written confirmation has been issued and which confirmation expires or is relinquished by the agency receiving the allocation, shall be added to the state allocation pool.

(3) On October 1 of each year, any portion of the allocation made to the Florida First Business allocation pool pursuant to s. 159.804(5) or subsection (1) or subsection (2), which is eligible for carryforward pursuant to s. 146(f) of the Code but which has not been certified for carryforward by the Office of Tourism, Trade, and Economic Development, shall be returned to the Florida First Business allocation pool.

(4)(3) On November 16 of each year, any portion of the ~~initial~~ allocation, made pursuant to s. 159.804(1), s. 159.804(5), or subsection (1), ~~or subsection (2), or subsection (3),~~ other than as provided in s. 159.8083, for which an issuance report for bonds utilizing such an allocation has not been received by the division prior to that date shall be added to the state allocation pool.

Section 7. Effective January 1, 2001, subsection (1) of section 159.81, Florida Statutes, is amended to read:

159.81 Unused allocations; carryforwards.—

(1) The division shall, when requested, provide carryforwards pursuant to s. 146(f) of the Code for written confirmations for priority projects which

qualify for a carryforward pursuant to s. 146(f) of the Code, if such request is accompanied by an opinion of bond counsel to that effect. In addition, in the case of Florida First Business projects, the division shall, when requested, grant requests for carryforward only after receipt of a certification from the Office of Tourism, Trade, and Economic Development that the project has been approved by such office to receive carryforward.

Section 8. Effective January 1, 2001, section 159.8083, Florida Statutes, is amended to read:

159.8083 Florida First Business allocation pool.—The Florida First Business allocation pool is hereby established. The Florida First Business allocation pool shall be available solely to provide written confirmation for private activity bonds to finance Florida First Business projects certified by the Office of Tourism, Trade, and Economic Development as eligible to receive a written confirmation. Allocations from such pool shall be awarded statewide pursuant to procedures specified in s. 159.805, except that the provisions of s. 159.805(2), (3), and (6) do not apply. Florida First Business projects that are eligible for a carryforward shall not lose their allocation pursuant to s. 159.809(3) on October 1, or pursuant to s. 159.809(4) on November 16, if they have applied for and have been granted a carryforward by the division pursuant to s. 159.81(1). In issuing written confirmations of allocations for Florida First Business projects, the division shall use the Florida First Business allocation pool. If allocation is not available from the Florida First Business allocation pool, the division shall issue written confirmations of allocations for Florida First Business projects pursuant to s. 159.806 or s. 159.807, in such order. For the purpose of determining priority within a regional allocation pool or the state allocation pool, notices of intent to issue bonds for Florida First Business projects to be issued from a regional allocation pool or the state allocation pool shall be considered to have been received by the division at the time it is determined by the division that the Florida First Business allocation pool is unavailable to issue confirmation for such Florida First Business project. If the total amount requested in notices of intent to issue private activity bonds for Florida First Business projects exceeds the total amount of the Florida First Business allocation pool, the director shall forward all timely notices of intent to issue, which are received by the division for such projects, to the Office of Tourism, Trade, and Economic Development which shall render a decision as to which notices of intent to issue are to receive written confirmations. The Office of Tourism, Trade, and Economic Development, in consultation with the division, shall develop rules to ensure that the allocation provided in such pool is available solely to provide written confirmations for private activity bonds to finance Florida First Business projects and that such projects are feasible and financially solvent.

Section 9. Effective upon this act becoming a law and operating retroactively to January 1, 2000, section 196.1978, Florida Statutes, is amended to read:

196.1978 Affordable Low-income housing property exemption.—~~Property used to provide affordable housing serving eligible pursuant to any state housing program authorized under chapter 420 to low-income or very-low-income persons as defined by s. 159.603(7) and persons meeting income~~

limits specified in s. 420.0004(9), (10), and (14), which property is owned entirely by a nonprofit entity corporation which is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and which complies with 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 those portions of the affordable housing property which provide housing to individuals with incomes as defined in s. 420.0004(9) and (14) such property shall be exempt from ad valorem taxation to the extent authorized in s. 196.196. All property identified in this section shall comply with the criteria for determination of exempt status to be applied by property appraisers on an annual basis as defined in s. 196.195. The Legislature intends that any property owned by a limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be treated as owned by its sole member.

Section 10. Subsections (37) and (38) are added to section 420.507, Florida Statutes, to read:

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

(37) To provide by rule, in connection with any corporation competitive program, for the reservation of future allocation or funding to provide a remedy for a litigant which is ultimately successful in its litigation regarding a competitive application, and to establish a date certain by which, if litigation is not resolved, the successful litigant will be funded from a subsequent year's available allocation or funding.

(38) To designate private activity allocation for tax-exempt bonds received by the corporation pursuant to part VI of chapter 159 between single-family and multifamily projects.

Section 11. Subsection (3) of section 420.5099, Florida Statutes, is amended to read:

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

(3) The corporation may request such information from applicants as will enable it to make the allocations according to the guidelines set forth in subsection (2), including, but not limited to, the information required to be provided the corporation by chapter ~~67~~ ~~91-21~~, Florida Administrative Code.

Section 12. Section 420.526, Florida Statutes, is amended to read:

420.526 Predevelopment Loan Program; loans and grants authorized; activities eligible for support.—

(1) The corporation is authorized to ~~underwrite and~~ make loans and grants from the Housing Predevelopment Fund to eligible sponsors when it determines that:

(a) A need for housing for the target population exists in the area described in the application; and

(b) Federal, state, or local public funds or private funds are available or likely to be available to aid in the site acquisition, site development, construction, rehabilitation, maintenance, or support of the housing proposed in the application.

~~(2) If a loan is made, the corporation is authorized to forgive such loan, and thereby make a grant to a sponsor for any moneys which are unable to be repaid due to the sponsor's inability to obtain construction or permanent financing for the development. The corporation shall not forgive the portion of the loan, if any, which is secured by a mortgage to the extent such loan could be repaid from the sale of the mortgaged property shall not award a grant or loan to a sponsor that is unable to demonstrate the ability to proceed as verified by a qualified development team.~~

~~(3) The corporation shall establish rules for the equitable distribution of the funds in a manner that meets the need and demand for housing for the target population. However, during the first 6 months of fund availability, at least 40 percent of the total funds made available under this program shall be reserved for Sponsors of farmworker housing, if any, shall receive first priority under this program, and further priorities shall be as established by rule of the corporation.~~

(4) The activities of sponsors which are eligible for housing predevelopment loans and grants shall include, but not be limited to:

(a) Site acquisition.

(b) Site development.

(c) Fees for requisite services from architects, engineers, surveyors, attorneys, and other professionals.

(d) Marketing expenses relating to advertisement.

~~(5) The activities of sponsors which are eligible for housing predevelopment grants shall include, but not be limited to:~~

~~(e)(a)~~ Administrative expenses.

~~(f)(b)~~ Market and feasibility studies.

~~(g)(c)~~ Consulting fees.

~~(5)(6)~~ Any funds paid out of the Housing Predevelopment Fund for activities under ss. 420.521-420.529 which are reimbursed to the sponsor from another source shall be repaid to the fund.

~~(7) Sponsors receiving loans for professional fees may receive forgiveness of such loans if it is determined that the proposed project would not be feasible for housing for the target population.~~

~~(6)~~(8) Terms and conditions of housing predevelopment loan agreements shall be established by rule and shall include:

(a) Provision for interest, which shall be set at between 0 and 3 percent per year, as established by the corporation.

(b) Provision of a schedule for the repayment of principal and interest for a term not to exceed 3 years or initiation of permanent financing, whichever event occurs first. However, the corporation may extend the term of a loan for an additional period ~~not to exceed 1 year~~ if extraordinary circumstances exist and if such extension would not jeopardize the corporation's security interest.

(c) Provision of reasonable security for the housing predevelopment loan to ensure the repayment of the principal and any interest accrued within the term specified. ~~Reasonable security shall be a promissory note secured by a mortgage from the sponsor on the property to be purchased, improved, or purchased and improved with the proceeds of the housing predevelopment loan or other collateral acceptable to the corporation.~~

(d) Provisions to ensure that the land acquired will be used for the development of housing and related services for the target population.

(e) Provisions to ensure, to the extent possible, that any accrued savings in cost due to the availability of these funds will be passed on to the target population in the form of lower land prices. The corporation shall ensure that such savings in land prices shall be passed on in the form of lower prices or rents for dwellings constructed on such land.

(f) Provisions to ensure that any land acquired through assistance under ss. 420.521-420.529 for housing for the target population shall not be disposed of or alienated in a manner that violates Title VII of the 1968 Civil Rights Act, which specifically prohibits discrimination based on race, sex, color, religion, or national origin or that violates other applicable federal or state laws.

~~(7)~~(9) No predevelopment loan made under this section shall exceed the lesser of:

(a) The development and acquisition costs for the project, as determined by rule of the corporation; or

(b) Five hundred thousand dollars.

~~(8)~~(10) Any real property or any portion thereof purchased or developed under ss. 420.521-420.529 may be disposed of by the eligible sponsor upon the terms and conditions established by rule of the corporation and consistent with ss. 420.521-420.529, at a price not to exceed the actual prorated land costs, development costs, accrued taxes, and interest.

Section 13. Subsections (3), (5), (7), and (8) of section 420.609, Florida Statutes, are amended to read:

420.609 Affordable Housing Study Commission.—Because the Legislature firmly supports affordable housing in Florida for all economic classes:

(3) The department and the corporation agency shall supply such information, assistance, and facilities as are deemed necessary for the commission to carry out its duties under this section and shall provide such staff assistance as is necessary for the performance of required clerical and administrative functions of the commission.

(5) The commission shall review, evaluate, and make recommendations regarding existing and proposed housing programs and initiatives. The commission shall provide these and any other housing recommendations to the secretary of the Department of Community Affairs and the executive director of the corporation.

(7) ~~By July 15 December 31~~ of each year beginning in ~~2001 1992~~, the commission shall prepare and submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report detailing its findings and making specific program, legislative, and funding recommendations and any other recommendations it deems appropriate.

(8) The commission shall recommend studies to be ~~conducted for included in the annual research agenda of the Multidisciplinary Center for affordable housing. These recommendations shall be submitted to the department and the center in order to assist them in establishing an appropriate research agenda for the center.~~

Section 14. Subsections (4) and (27) of section 420.9071, Florida Statutes, are amended to read:

420.9071 Definitions.—As used in ss. 420.907-420.9079, the term:

(4) “Annual gross income” means annual income as defined under the Section 8 housing assistance payments programs in 24 C.F.R. part 5; annual income as reported under the census long form for the recent available decennial census; or adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 for individual federal annual income tax purposes. Counties and eligible municipalities shall calculate income by annualizing verified sources projecting the prevailing annual rate of income for all adults in the household as the amount of income to be received in a household during the 12 months following the effective date of the determination.

(27) “Sales price” or “value” means, in the case of acquisition of an existing or newly constructed unit, the amount on the executed sales contract. For eligible persons who are building a unit on land that they own, the sales price is determined by an appraisal performed by a state-certified appraiser. The appraisal must include the value of the land and the improvements using the after-construction value of the property and must be dated within 12 months of the date construction is to commence. The sales price of any unit must include the value of the land in order to qualify as eligible housing as defined in subsection (8). In the case of rehabilitation or emergency repair of an existing unit that does not create additional living space, sales price

or value means the value of the real property, as determined by an appraisal performed by a state-certified appraiser and dated within 12 months of the date construction is to commence or the assessed value of the real property as determined by the county property appraiser, ~~plus the cost of the improvements.~~ In the case of rehabilitation of an existing unit that includes the addition of new living space, sales price or value means the value of the real property, as determined by an appraisal performed by a state-certified appraiser and dated within 12 months of the date construction is to commence or the assessed value of the real property as determined by the county property appraiser, plus the cost of the improvements in either case.

Section 15. Paragraph (e) of subsection (3) and paragraph (c) of subsection (4) of section 420.9075, Florida Statutes, are amended to read:

420.9075 Local housing assistance plans; partnerships.—

(3) Each local housing assistance plan is governed by the following criteria and administrative procedures:

(e) The staff or entity that has administrative authority for implementing a local housing assistance plan assisting rental developments shall annually monitor and determine tenant eligibility ~~or, to the extent the Florida Housing Finance Corporation provides the same monitoring and determination, a municipality, county, or local housing financing authority may rely on such monitoring and determination of tenant eligibility.~~

(4) The following criteria apply to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing:

(c) The sales price or value of new or existing eligible housing may not exceed 90 percent of the ~~average median~~ average median area purchase price in the ~~statistical area in which where~~ statistical area in which the eligible housing is located, ~~which housing was purchased during the most recent 12-month period for which sufficient statistical information is available or,~~ which housing was purchased during the most recent 12-month period for which sufficient statistical information is available or, as established by the United States Department of Treasury.

If both an award under the local housing assistance plan and federal low-income housing tax credits are used to assist a project and there is a conflict between the criteria prescribed in this subsection and the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, the county or eligible municipality may resolve the conflict by giving precedence to the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, in lieu of following the criteria prescribed in this subsection with the exception of paragraphs (a) and (d) of this subsection.

Section 16. Section 760.26, Florida Statutes, is created to read:

760.26 Prohibited discrimination in land use decisions and in permitting of development.—It is unlawful to discriminate in land use decisions or in the permitting of development based on race, color, national origin, sex, disability, familial status, religion, or, except as otherwise provided by law, the source of financing of a development or proposed development.

Section 17. State Farmworker Housing Pilot Loan Program.—The State Farmworker Housing Pilot Loan Program is created for the purpose of demonstrating the ability to use state dedicated funds to leverage Federal Government, local government, and private resources to provide affordable, safe, and sanitary rental housing units for farmworkers.

(1) Subject to the availability of funds appropriated to fund the State Farmworker Housing Pilot Loan Program, the Florida Housing Finance Corporation shall have the authority to make farmworker housing loans to a sponsor, as defined in s. 420.503(37), Florida Statutes, provided the sponsor:

(a) Agrees to:

1. Set aside at least 80 percent of the units for eligible farmworkers, as defined in s. 420.503(18), Florida Statutes;

2. Set aside 100 percent of the units for households whose family income does not exceed:

a. Fifty percent of the adjusted local median income in areas which are not metropolitan statistical areas; or

b. Forty percent of adjusted local median income in metropolitan statistical areas; and

3. Limit rents to no more than 30 percent of the maximum household income adjusted to unit size; or

(b) Uses federal funds provided under section 514 or section 516 of Title V of the Federal Housing Act of 1949 and meets maximum rental limits, tenant eligibility, and other regulatory requirements established pursuant to such programs.

(2) The corporation shall issue a request for proposals to solicit applications for loans offered pursuant to this section and shall establish a funding cycle to distribute funds pursuant to this section. The corporation shall coordinate this cycle with the fiscal year 2001 federal funding cycle for section 514 or section 516 of Title V of the Federal Housing Act of 1949. The corporation may distribute through this funding cycle any additional funds set aside for farmworker housing under the State Apartment Incentive Loan Program authorized by s. 420.5087, Florida Statutes, or other funds appropriated for the State Farmworker Housing Pilot Loan Program.

(3) All eligible applications shall:

(a) Demonstrate that the sponsor possesses title to or firm site control of land and evidences availability of required infrastructure.

(b) Have grants, donations of land, or contributions from other sources collectively totaling at least 25 percent of the total development cost. Such grants, donations of land, or contributions need not be committed at the time of application. The corporation shall establish a set time for receipt of such commitments.

(c) Have local government contributions and private agriculture producer funds and other private leveraged funds totaling no less than 3 percent of the total development cost.

(d) Demonstrate accessibility to commercial businesses and services needed to serve the needs of the resident farmworkers or include a viable plan to provide access to those commercial businesses and services.

(e) Limit developer fees to no more than 15 percent of the total development cost, less developer fees and land cost.

(4) The corporation shall establish a review committee composed of staff of the Department of Community Affairs selected by the Secretary of Community Affairs and staff of the corporation and shall establish a scoring system for evaluation and competitive ranking of applications submitted in this program.

(a) Each application shall address and be evaluated and ranked based on the following criteria:

1. A demonstrated need for farmworker housing: Proposed developments in a county determined by the Shimberg Center for Affordable Housing's April 1997 Migrant Farm Worker Needs Assessment, or any subsequent assessment, to have a shortage of affordable housing for 3,000 or more farmworkers shall receive maximum points. Sponsors proposing developments in other counties and demonstrating a high need for farmworker housing through other state or local governmental reports or market studies are eligible for funding under this section, but shall receive less points.

2. Developer fees: Sponsors with developer fees less than 15 percent shall be awarded additional points. There shall be no identity of interest between the sponsor, affiliated entities, and the contractor, and the sponsor or affiliated entities shall not receive any financial or other remuneration from the contractor as a condition of the contractor's selection.

3. The project's mix: Applications providing a set-aside of 20 percent or more units for seasonal, temporary, or migrant workers, including unaccompanied workers, shall receive additional points.

4. Innovation: Innovative planning concepts such as a phased development plan for mixed-income or occupational groups, home ownership, or commercial uses on a nearby parcel shall receive additional points.

5. Innovative building designs: Innovative building designs, which are targeted to meet the needs of the hard-to-serve population of migrant, seasonal, and very-low-income tenants which lower costs and rents while providing safe, sanitary, and decent housing shall receive additional points.

6. Federal Government contributions: Scoring shall provide additional points based on the percentage of federal funds leveraged. Such funds need not be committed to the proposed project. The corporation shall establish a set time for receipt of such commitments, taking into consideration the application deadlines and projected determination periods set by each of the

agencies responsible for the federal funds proposed as leveraged. The corporation may give more points to applications with commitments of federal contributions.

7. Local government participation: Evidence of local government participation in project planning demonstrating a commitment to the project's success, including, but not limited to, comprehensive planning, letters of support, and other activities, shall receive additional points.

8. A provision for supportive services accessible onsite or through cooperative agreements with service providers in the community: Scoring shall provide additional points to eligible applications that provide one or more qualified tenant programs to enhance quality of life for residents. Such programs include, but are not limited to, the inclusion of a Title XX or Head Start child care facility for children onsite or within 3 miles of the development, tenant activities, health care, financial counseling, English as a Second Language courses, and GED courses.

9. The quality of the project's design: All developments shall include the equivalent of 0.25 full bathroom facilities per bed or tenant; onsite laundry, laundry sink, or hookups and space for a washer and dryer inside each unit; and appropriate minimum storage space. Flexibility shall be permitted for innovative designs which meet the needs of the population served.

a. The following items are not required and shall receive no points in the scoring of applications: two full bathrooms in all three-bedroom units, one and one-half bathrooms in all two-bedroom units, swimming pool, dishwasher, garbage disposals, and cable television hookups.

b. The following items are not required but shall receive additional points in the scoring of applications: window treatments, 30-year roofing on all buildings, gated community with carded entry or security guard, car care area, covered picnic area, playground, outdoor recreation area for older children, two or more parking spaces per unit, large multipurpose room or clubhouse, air conditioning or whole-house fan as determined by geographic region or seasonal occupancy, hurricane shutters or resistant glass, and energy conservation features.

10. The feasibility and economic viability of the project.

11. The sponsor's development experience: Scoring shall provide the most points to eligible applicants with successful experience in the development of farmworker housing commensurate to the size and scope of the proposed development. Applicants with less development experience or experience in projects substantially smaller than that proposed shall receive less points. The experience may be that of an affiliated or controlling corporation where the eligible applicant is established to limit liability of the affiliated group.

12. The sponsor's management experience: Scoring shall provide the most points to eligible applicants with successful experience in the management of farmworker housing commensurate to the size and scope of the

proposed development. Applicants with less management experience or experience in projects substantially smaller than the proposed development shall receive less points. The experience may be that of an affiliated or controlling nonprofit corporation where the eligible applicant is established to limit liability of the affiliated group.

13. The ability to proceed with construction: Scoring shall provide the most points to those applicants able to proceed in a timely manner. In addition to local government participation as addressed in subparagraph 7., items to be scored shall include, but not be limited to: environmental safety, infrastructure availability, schematic site plans and elevations, and conceptual, preliminary, or final site plan approval.

14. A management plan to attract, serve, and keep eligible farmworker tenants.

(b) The corporation may reject any application.

(c) The review committee established by the corporation shall make recommendations to the board of directors of the corporation regarding program participation under the State Farmworker Housing Pilot Loan Program. The corporation board shall make the final ranking and the decisions regarding which applicants shall become program participants based on the scores received in the competitive ranking, further review of applications, and the recommendations of the review committee. The corporation board shall approve or reject applications for loans and shall determine the tentative loan amount available to each applicant selected for participation in the program.

(5) Loans provided pursuant to this section shall be nonamortizing. The corporation shall establish interest rates for loans made pursuant to this section. Loans to not-for-profit applicants shall have interest rates of zero percent if no low-income housing tax credits are allocated to the development. If low-income housing tax credits are allocated to the development, the interest rate may be adjusted upward to meet appropriate federal requirements. Loans to for-profit applicants shall have interest rates of 3 percent if no low-income housing tax credits are allocated to the development. If low-income housing tax credits are allocated to the development, the interest rate may be adjusted upward to meet appropriate federal requirements. Loans shall not exceed \$5 million. The following provisions shall apply to all loans provided under this section:

(a) No loan combined with any other mortgage in a superior position shall exceed the development cost or the value of security, whichever is less.

(b) The loan term shall be for a period of not less than 20 years. The corporation may renegotiate and extend the loan in order to extend the availability of housing for farmworkers. The term of a loan may not extend beyond the period for which the sponsor agrees to provide housing for farmworkers as provided in subsection (1). Payment on the loans shall be based on the actual development cash flow and principal and interest may be deferred without constituting a default on the loan. The corporation may defer repayment of loans made under this section until the end of the loan

period, including any extension, or until the housing no longer meets the requirements of subsection (1), whichever occurs first.

(c) The discrimination provisions of s. 420.516, Florida Statutes, shall apply to all loans.

(d) The proceeds of all loans shall be used for new construction or substantial rehabilitation which creates affordable, safe, and sanitary housing units.

(e) Sponsors shall annually certify the eligibility status and adjusted gross income of all persons or families qualified under subsection (1) who are residing in a project funded by this program. For monitoring purposes, the corporation may rely on a federal governmental entity which is also required to monitor and determine tenant eligibility.

(f) If agricultural and market conditions change substantially in a market area in which a project is located, the sponsor may request approval from the corporation for changes in the occupational or income set-aside requirements. The sponsor shall submit evidence of such market changes, including, but not limited to, a market study and statements from agricultural producers and agricultural labor representatives. The board of directors of the corporation may amend set-aside requirements; however, such changes shall preserve the maximum percentage of units for eligible farmworkers as market conditions permit.

(6) If a default on a loan occurs, the corporation may foreclose on any mortgage or security interest or commence any legal action to protect the interest of the corporation and recover the amount of the unpaid principal, accrued interest, and fees. The corporation may acquire real or personal property or any interest in such property when that acquisition is necessary or appropriate to: protect any loan; sell, transfer, and convey any such property to a buyer without regard to the provisions of chapters 253 and 270, Florida Statutes; and, if that sale, transfer, or conveyance cannot be effected within a reasonable time, lease such property for occupancy by eligible persons. All sums recovered from the sale, transfer, conveyance, or lease of such property shall be deposited into an account established by the corporation in a qualified public depository meeting the requirements of chapter 280, Florida Statutes, for purposes of expending moneys appropriated to fund the State Farmworker Housing Pilot Loan Program as provided in subsection (1).

(7) Subject to the availability of funds appropriated to fund the State Farmworker Housing Pilot Loan Program, the Florida Housing Finance Corporation shall contract with a nonprofit corporation, qualified under s. 501(c)(3) of the Internal Revenue Code, representing a mix of stakeholders concerned with housing conditions faced by migrant and seasonal farmworkers with demonstrated expertise in housing issues. The corporation shall select such contractor within 90 days after the effective date of this section to assist the corporation in establishing and implementing the State Farmworker Housing Pilot Loan Program, and to prepare a research report that includes a needs assessment and strategic plan for agricultural labor housing in this state. The research report shall be submitted to the Governor, the

President of the Senate, and the Speaker of the House of Representatives. The report shall:

(a) Identify localities throughout this state having the greatest need for newly-constructed or rehabilitated agricultural labor housing.

(b) Identify successful project prototypes to provide safe, decent, and affordable agricultural housing.

(c) Provide an analysis of state and local barriers to the development of agricultural housing.

(d) Profile successful state and local government programs within and without this state that address agricultural housing needs.

(8) The corporation may adopt rules to implement this section.

Section 18. Nothing in this act shall serve to remove the exemption from any entity that is currently eligible for and receives the exemption.

Section 19. Except as otherwise provided herein, this act shall take effect July 1, 2000.

Approved by the Governor June 21, 2000.

Filed in Office Secretary of State June 21, 2000.