

Committee Substitute for House Bill No. 19

An act relating to housing; amending s. 420.5092, F.S.; including housing for the homeless in eligible housing under the Florida Affordable Housing Guarantee Program; increasing the maximum amount of revenue bonds that may be issued by the Florida Housing Finance Corporation under said program; amending s. 420.5088, F.S.; revising eligibility requirements for certain loans under the Florida Homeownership Assistance Program; amending s. 420.503, F.S.; revising the definitions of “elderly” and “housing for the elderly” under the Florida Housing Finance Corporation Act; amending s. 760.29, F.S.; providing that a facility or community claiming an exemption from the Fair Housing Act with respect to familial status for housing for older persons shall register with the Florida Commission on Human Relations and affirm compliance with specified requirements; providing for a registration fee; providing for fines; amending s. 760.31, F.S.; providing for rules; providing an effective date.

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

Section 1. Paragraph (d) of subsection (2) and subsection (11) of section 420.5092, Florida Statutes, are amended to read:

420.5092 Florida Affordable Housing Guarantee Program.—

(2) As used in this section, the term:

(d) “Eligible housing” means any real and personal property designed and intended for the primary purpose of providing decent, safe, and sanitary residential units for homeownership or rental for eligible persons, including specifically housing for the homeless, as determined by the corporation pursuant to rule.

(11) The maximum total amount of revenue bonds that may be issued by the corporation pursuant to subsection (5) is \$400 ~~\$200~~ million.

Section 2. Paragraph (a) of subsection (1) of section 420.5088, Florida Statutes, is amended to read:

420.5088 Florida Homeownership Assistance Program.—There is created the Florida Homeownership Assistance Program for the purpose of assisting low-income persons in purchasing a home by reducing the cost of the home with below-market construction financing, by reducing the amount of down payment and closing costs paid by the borrower to a maximum of 5 percent of the purchase price, or by reducing the monthly payment to an affordable amount for the purchaser. Loans shall be made available at an interest rate that does not exceed 3 percent. The balance of any loan is due at closing if the property is sold or transferred.

(1) For loans made available pursuant to s. 420.507(23)(a)1. or 2.:

~~(a) The corporation may underwrite and make those mortgage loans through the program to persons or families who are eligible to participate in the corporation's single-family mortgage revenue bond programs and who have incomes that do not exceed 80 percent of the state or local median income, whichever is greater, adjusted for family size. If the corporation determines that there is insufficient demand for such loans by persons or families who are eligible to participate in the corporation's single-family mortgage revenue bond programs, the corporation may make such mortgage loans to other persons or families who have incomes that do not exceed 80 percent of the state or local median income, whichever amount is greater.~~

Section 3. Subsections (15) and (19) of section 420.503, Florida Statutes, are amended to read:

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

(15) “Elderly” means persons 62 years of age or older. This definition shall not be deemed to prohibit housing from being deemed housing for the elderly as defined by subsection (19) if such housing otherwise meets the requirements of subsection (19).

(19) “Housing for the elderly” means, for purposes of s. 420.5087(3)(c)2., any nonprofit housing community that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the National Housing Act, as amended, and that is subject to income limitations established by the United States Department of Housing and Urban Development, or any program funded by the Rural Development Agency of the United States Department of Agriculture and subject to income limitations established by the United States Department of Agriculture. A project which qualifies for an exemption under the Fair Housing Act as housing for older persons as defined by s. 760.29(4) shall qualify as housing for the elderly for purposes of s. 420.5087(3)(c)2. and for purposes of any loans made pursuant to s. 420.508. In addition, if the corporation adopts a qualified allocation plan pursuant to s. 42(m)(1)(B) of the Internal Revenue Code or any other rules that prioritize projects targeting the elderly for purposes of allocating tax credits pursuant to s. 420.5099 or for purposes of the HOME program under s. 420.5089, a project which qualifies for an exemption under the Fair Housing Act as housing for older persons as defined by s. 760.29(4) shall qualify as a project targeted for the elderly, if the project satisfies the other requirements set forth in this part.

Section 4. Paragraph (e) is added to subsection (4) of section 760.29, Florida Statutes, to read:

760.29 Exemptions.—

(4)(a) Any provision of ss. 760.20-760.37 regarding familial status does not apply with respect to housing for older persons.

(b) As used in this subsection, the term “housing for older persons” means housing:

1. Provided under any state or federal program that the commission determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

2. Intended for, and solely occupied by, persons 62 years of age or older; or

3. Intended and operated for occupancy by persons 55 years of age or older that meets the following requirements:

a. At least 80 percent of the occupied units are occupied by at least one person 55 years of age or older.

b. The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph. If the housing facility or community meets the requirements of sub-subparagraphs a. and c. and the recorded governing documents provide for an adult, senior, or retirement housing facility or community and the governing documents lack an amendatory procedure, prohibit amendments, or restrict amendments until a specified future date, then that housing facility or community shall be deemed housing for older persons intended and operated for occupancy by persons 55 years of age or older. If those documents further provide a prohibition against residents 16 years of age or younger, that provision shall be construed, for purposes of the Fair Housing Act, to only apply to residents 18 years of age or younger, in order to conform with federal law requirements. Governing documents which can be amended at a future date must be amended and properly recorded within 1 year after that date to reflect the requirements for consideration as housing for older persons, if that housing facility or community intends to continue as housing for older persons.

c. The housing facility or community complies with rules made by the Secretary of the United States Department of Housing and Urban Development pursuant to 24 C.F.R. part 100 for verification of occupancy, which rules provide for verification by reliable surveys and affidavits and include examples of the types of policies and procedures relevant to a determination of compliance with the requirements of sub-subparagraph b. Such surveys and affidavits are admissible in administrative and judicial proceedings for the purposes of such verification.

(c) Housing shall not fail to be considered housing for older persons if:

1. A person who resides in such housing on or after October 1, 1989, does not meet the age requirements of this subsection, provided that any new occupant meets such age requirements; or

2. One or more units are unoccupied, provided that any unoccupied units are reserved for occupancy by persons who meet the age requirements of this subsection.

(d) A person shall not be personally liable for monetary damages for a violation of this subsection if such person reasonably relied in good faith on the application of the exemption under this subsection relating to housing

for older persons. For purposes of this paragraph, a person may show good faith reliance on the application of the exemption only by showing that:

1. The person has no actual knowledge that the facility or the community is ineligible, or will become ineligible, for such exemption; and

2. The facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

(e) A facility or community claiming an exemption under this subsection shall register with the commission and submit a letter to the commission stating that the facility or community complies with the requirements of subparagraph (b)1., subparagraph (b)2., or subparagraph (b)3. The letter shall be submitted on the letterhead of the facility or community and shall be signed by the president of the facility or community. This registration and documentation shall be renewed biennially from the date of original filing. The information in the registry shall be made available to the public, and the commission shall include this information on an Internet website. The commission may establish a reasonable registration fee, not to exceed \$20, that shall be deposited into the commission's trust fund to defray the administrative costs associated with maintaining the registry. The commission may impose an administrative fine, not to exceed \$500, on a facility or community that knowingly submits false information in the documentation required by this paragraph. Such fines shall be deposited in the commission's trust fund. The registration and documentation required by this paragraph shall not substitute for proof of compliance with the requirements of this subsection. Failure to comply with the requirements of this paragraph shall not disqualify a facility or community that otherwise qualifies for the exemption provided in this subsection.

A county or municipal ordinance regarding housing for older persons may not contravene the provisions of this subsection.

Section 5. Subsection (5) of section 760.31, Florida Statutes, is amended to read:

760.31 Powers and duties of commission.—The commission shall:

(5) Adopt rules necessary to implement ss. 760.20-760.37 and govern the proceedings of the commission in accordance with chapter 120. Commission rules shall clarify terms used with regard to handicapped accessibility, exceptions from accessibility requirements based on terrain or site characteristics, and requirements related to housing for older persons. Commission rules shall specify the fee and the forms and procedures to be used for the registration required by s. 760.29(4)(e).

Section 6. This act shall take effect October 1, 2001.

Approved by the Governor June 1, 2001.

Filed in Office Secretary of State June 1, 2001.