

Council Substitute for House Bill No. 547

An act relating to affordable housing; amending s. 373.4141, F.S.; providing that processing of permit applications for affordable housing projects under pt. IV of ch. 373, F.S., relating to management and storage of surface waters, shall be expedited; amending s. 420.507, F.S.; authorizing all State Apartment Incentive Loans to be subject to contingent interest based upon available cash flow; providing that projects for occupancy by commercial fishing workers and the homeless are eligible for the lowest interest rate mortgage loans under the State Apartment Incentive Loan Program; authorizing the Florida Housing Finance Corporation to establish subsidiary corporations for certain purposes and to conduct and fund certain demonstration programs and projects; amending s. 420.508, F.S.; authorizing the corporation to establish a procedure for evaluating and ranking applications for private activity bond allocation in connection with multifamily projects and to establish terms of mortgage loans; amending s. 420.5087, F.S.; providing that a project located in a county that includes or has included an area of critical state concern for which the Legislature intends to provide affordable housing and that meets certain income criteria is eligible under the State Apartment Incentive Loan Program; providing an expiration date; amending s. 420.526, F.S.; revising requirements relating to funding priorities under the Predevelopment Loan Program; amending s. 420.527, F.S.; revising requirements relating to the application procedure under the program and to evaluation of applicants; amending s. 420.9075, F.S.; revising requirements for monitoring and determining tenant eligibility in connection with a local housing assistance plan under the State Housing Initiatives Partnership Program; revising requirements for determining the average area purchase price under such plans; exempting a county or municipality that includes or has included an area of critical state concern for which the Legislature intends to provide affordable housing from certain tenant income requirements under such plans; providing an expiration date; revising requirements for the annual report to the corporation required under the program; providing an effective date.

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

Section 1. Subsection (3) is added to section 373.4141, Florida Statutes, to read:

373.4141 Permits; processing.—

(3) Processing of applications for permits for affordable housing projects shall be expedited to a greater degree than other projects.

Section 2. Paragraph (a) of subsection (22) of section 420.507, Florida Statutes, is amended, and subsections (40) and (41) are added to said section, 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:

(22) To develop and administer the State Apartment Incentive Loan Program. In developing and administering that program, the corporation may:

(a) Make first, second, and other subordinated mortgage loans including variable or fixed rate loans subject to contingent interest for all State Apartment Incentive Loans provided for in this chapter based upon available cash flow of the projects. The corporation shall make loans exceeding 25 percent of project cost available only to nonprofit organizations and public bodies which are able to secure grants, donations of land, or contributions from other sources and to projects meeting the criteria of subparagraph 1. Mortgage loans shall be made available at the following rates of interest:

1. Zero to 3 percent interest for sponsors of projects that maintain an 80 percent occupancy of residents qualifying as farmworkers as defined in s. 420.503(18), commercial fishing workers as defined in s. 420.503(5), or the homeless as defined in s. 420.621(4) over the life of the loan.

2. Three to 9 percent interest for sponsors of projects targeted at populations other than farmworkers, commercial fishing workers, and the homeless.

(40) To establish subsidiary corporations for the purpose of taking title to and managing and disposing of property acquired by the corporation. Such subsidiary corporations shall be public corporations wholly owned by the corporation; shall be entitled to own, mortgage, and sell property on the same basis as the corporation; and shall be deemed corporations primarily acting as agents of the state, within the meaning of s. 768.28, on the same basis as the corporation. Any subsidiary created by the corporation shall be subject to chapters 119, 120, and 286 to the same extent as the corporation.

(1) To conduct and fund, solely from funds derived from amounts other than those deposited into the State Housing Trust Fund, demonstration programs and projects which further the statutory purposes of the corporation, including the power to establish selection criteria by rule or by means of requests for proposals.

Section 3. Subsections (6) and (7) are added to section 420.508, Florida Statutes, to read:

420.508 Special powers; multifamily and single-family projects.—The corporation shall have the special power to:

(6) Establish, by rule, a procedure for evaluating, scoring, and competitively ranking all applications for private activity bond allocation in connection with multifamily projects financed under this part.

(7) Establish terms of mortgage loans funded pursuant to this part, including applicable security documents and limitations on sources and uses of funds.

Section 4. Subsection (2) of section 420.5087, Florida Statutes, is amended to read:

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

(2) The corporation shall have the power to underwrite and make state apartment incentive loans or loan guarantees to sponsors, provided:

(a) The sponsor uses tax-exempt financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes which meet the income eligibility requirements of s. 8 of the United States Housing Act of 1937, as amended;

(b) The sponsor uses taxable financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, which shall be adjusted by the corporation for family size; ~~or~~

(c) The sponsor uses the federal low-income housing tax credit, and the project meets the tenant income eligibility requirements of s. 42 of the Internal Revenue Code of 1986, as amended; or-

(d) The project is located in a county that includes, or has included within the previous 5 years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing, and 100 percent of the units in the project are set aside for persons or families who have incomes below 120 percent of the state or local median income, whichever is higher, which shall be adjusted by the corporation for family size. This paragraph expires July 1, 2008.

This subsection does not prohibit a tenant from qualifying under the income eligibility criteria of paragraph (a), paragraph (b), ~~or~~ paragraph (c), or paragraph (d) due to the tenant's participation in a job training program approved by the corporation. Compliance with the provisions of this subsection must be contractually provided for the term of the loan or 12 years, whichever is longer; however, this subsection does not apply to loans made to housing communities for the elderly to provide for lifesafety, building preservation, health, sanitation, or security-related repairs or improvements. Such loans shall be subject to tenant income criteria established by corporation rule.

Section 5. Subsection (3) of section 420.526, Florida Statutes, is amended to read:

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

(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. Funds shall be made available under the program on a first-come, first-served basis, unless otherwise established by corporation rule. 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.

Section 6. Section 420.527, Florida Statutes, is amended to read:

420.527 Application procedure.—

(1) Applications shall be submitted to the corporation in a form that it establishes by rule.

~~(2) Applications that propose linkage of predevelopment funds with other financing offered through the corporation shall receive preference in funding.~~

~~(3) The corporation shall publish a notice of fund availability in a publication of general circulation throughout the state. Such notice shall be published at least 60 days before the application deadline.~~

~~(2)(4) By rule, the corporation shall establish the criteria a review committee composed of representatives of the corporation and a scoring system for determining threshold compliance with corporation objectives evaluating and ranking applications. Final decisions regarding funding shall be approved by the corporation board shall make the final ranking and shall decide which applicants become program participants based on the scores received in the ranking, further review of applications, and the recommendations of the review committee. The corporation board shall approve or reject applications for loans and grants and shall determine the tentative loan or grant amount available to each program participant. The actual loan or grant amount shall be determined pursuant to rule specifying credit underwriting procedures.~~

~~(3)(5) The criteria to be used to determine threshold compliance score applications shall include, but are not limited to, the following:~~

(a) Income target objectives of the corporation.

(b) Sponsor's agreement to reserve more than the minimum number of units for low-income households and very-low-income households.

(c) Projects requiring the least amount of predevelopment funds compared to total predevelopment costs.

(d) Sponsor's prior experience.

(e) Commitments of other financing.

(f) Sponsor's ability to proceed.

(g) Project's consistency with the local government comprehensive plan.

Section 7. Paragraph (e) of subsection (3), paragraphs (c) and (d) of subsection (4), and paragraph (c) of subsection (9) 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 another governmental entity ~~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. However, any loan or grant in the original amount of \$3,000 or less shall not be subject to these annual monitoring and determination of tenant eligibility requirements.

(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 area purchase price in the 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, as established by the United States Department of Treasury. Such average area purchase price may be that calculated for any 12-month period beginning not earlier than the fourth calendar year prior to the year in which the award occurs.~~

(d)1. All units constructed, rehabilitated, or otherwise assisted with the funds provided from the local housing assistance trust fund must be occupied by very-low-income persons, low-income persons, and moderate-income persons.

2. At least 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to very-low-income persons or eligible sponsors who will serve very-low-income persons and at least an additional 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to low-income persons or eligible sponsors who will serve low-income persons. This subparagraph does not apply to a county or an eligible municipality that includes, or has included within the previous 5 years, an area of critical state concern designated or ratified by the Legislature for which the Legislature has declared its intent to provide affordable housing. The exemption created by this act expires on July 1, 2008.

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.

(9) Each county or eligible municipality shall submit to the corporation by September 15 of each year a report of its affordable housing programs and accomplishments through June 30 immediately preceding submittal of the report. The report shall be certified as accurate and complete by the local government's chief elected official or his or her designee. Transmittal of the annual report by a county's or eligible municipality's chief elected official, or his or her designee, certifies that the local housing incentive strategies, or, if applicable, the local housing incentive plan, have been implemented or are in the process of being implemented pursuant to the adopted schedule for implementation. The report must include, but is not limited to:

(c) The average area purchase sales price or value of a single-family units ~~unit~~ and the amount of rent charged for a rental unit based on unit size.

Section 8. This act shall take effect upon becoming a law.

Approved by the Governor April 23, 2002.

Filed in Office Secretary of State April 23, 2002.