

## CHAPTER 2011-189

### House Bill No. 639

An act relating to affordable housing; amending s. 20.055, F.S.; revising the definition of “state agency” to include the Florida Housing Finance Corporation; revising the definition of “agency head” to include the board of directors of the corporation; requiring the inspector general to prepare an annual report; amending s. 159.608, F.S.; providing a housing finance authority with an additional purpose for which it may exercise its power to borrow; amending s. 163.3177, F.S.; revising provisions relating to the elements of local comprehensive plans to authorize the inclusion of an element for affordable housing for certain seniors; providing for the disposition of real property by a local government for the development of affordable housing; amending s. 201.15, F.S.; revising the allocation of certain proceeds distributed from the excise tax on documents that are paid into the State Treasury to the credit of the State Housing Trust Fund; providing for retroactive repeal of s. 8, ch. 2009-131, Laws of Florida, to eliminate a conflicting version of s. 201.15, F.S.; amending s. 420.0003, F.S.; including the needs of persons with special needs in the state housing strategy’s periodic review and report; amending s. 420.0004, F.S.; defining the terms “disabling condition” and “person with special needs”; conforming cross-references; amending s. 420.0006, F.S.; removing an obsolete reference; deleting provisions requiring the inspector general of the Department of Community Affairs to perform functions for the corporation to conform to changes made by the act; amending s. 420.504, F.S.; authorizing the Secretary of Community Affairs to designate a senior-level agency employee to serve on the board of directors of the Florida Housing Finance Corporation; amending s. 420.506, F.S.; providing for the appointment of an inspector general of the Florida Housing Finance Corporation; providing appointing authority thereof; providing duties and responsibilities of the inspector general; amending s. 420.507, F.S.; requiring certain rates of interest to be made available to sponsors of projects for persons with special needs; providing additional powers of the corporation relating to receipt of federal funds; revising powers of the corporation relating to criteria establishing a preference for eligible developers and general contractors; conforming a cross-reference; amending s. 420.5087, F.S.; limiting the reservation of funds within each notice of fund availability to the persons with special needs tenant group; including persons with special needs as a tenant group for specified purposes of the State Apartment Incentive Loan Program; revising and providing criteria to be used by a specified review committee for the competitive ranking of applications for such program; conforming a cross-reference; amending ss. 163.31771, 212.08, 215.5586, and 420.503, F.S.; conforming cross-references; providing legislative intent; prohibiting funds from the State Housing Trust Fund or the Local Government Housing Trust Fund that are appropriated for specified programs from being used for certain purposes; providing for future repeal; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (1) and subsection (7) of section 20.055, Florida Statutes, are amended to read:

20.055 Agency inspectors general.—

(1) For the purposes of this section:

(a) “State agency” means each department created pursuant to this chapter, and also includes the Executive Office of the Governor, the Department of Military Affairs, the Fish and Wildlife Conservation Commission, the Office of Insurance Regulation of the Financial Services Commission, the Office of Financial Regulation of the Financial Services Commission, the Public Service Commission, the Board of Governors of the State University System, the Florida Housing Finance Corporation, and the state courts system.

(b) “Agency head” means the Governor, a Cabinet officer, a secretary as defined in s. 20.03(5), or an executive director as defined in s. 20.03(6). It also includes the chair of the Public Service Commission, the Director of the Office of Insurance Regulation of the Financial Services Commission, the Director of the Office of Financial Regulation of the Financial Services Commission, the board of directors of the Florida Housing Finance Corporation, and the Chief Justice of the State Supreme Court.

(7)(a) Except as provided in paragraph (b), each inspector general shall, not later than September 30 of each year, prepare an annual report summarizing the activities of the office during the immediately preceding state fiscal year.

(b) The inspector general of the Florida Housing Finance Corporation shall, not later than 90 days after the end of each fiscal year, prepare an annual report summarizing the activities of the office of inspector general during the immediately preceding fiscal year.

(c) The final reports prepared pursuant to paragraphs (a) and (b) report shall be furnished to the heads of the respective agencies agency head. Such report shall include, but need not be limited to:

1.(a) A description of activities relating to the development, assessment, and validation of performance measures.

2.(b) A description of significant abuses and deficiencies relating to the administration of programs and operations of the agency disclosed by investigations, audits, reviews, or other activities during the reporting period.

3.(e) A description of the recommendations for corrective action made by the inspector general during the reporting period with respect to significant problems, abuses, or deficiencies identified.

4.(d) The identification of each significant recommendation described in previous annual reports on which corrective action has not been completed.

5.(e) A summary of each audit and investigation completed during the reporting period.

Section 2. Subsection (11) is added to section 159.608, Florida Statutes, to read:

159.608 Powers of housing finance authorities.—A housing finance authority shall constitute a public body corporate and politic, exercising the public and essential governmental functions set forth in this act, and shall exercise its power to borrow only for the purpose as provided herein:

(11) To invest and reinvest surplus funds of the housing finance authority in accordance with s. 218.415. However, in addition to the investments expressly authorized in ss. 218.415(16)(a)-(g) and (17)(a)-(d), a housing finance authority may invest surplus funds in interest-bearing time deposits or savings accounts that are fully insured by the Federal Deposit Insurance Corporation regardless of whether the bank or financial institution in which the deposit or investment is made is a qualified public depository as defined in s. 280.02. This subsection is supplementary to and may not be construed as limiting any powers of a housing finance authority or providing or implying a limiting construction of any other statutory provision.

Section 3. Paragraph (f) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(f)1. A housing element consisting of standards, plans, and principles to be followed in:

a. The provision of housing for all current and anticipated future residents of the jurisdiction.

b. The elimination of substandard dwelling conditions.

c. The structural and aesthetic improvement of existing housing.

d. The provision of adequate sites for future housing, including affordable workforce housing as defined in s. 380.0651(3)(j), housing for low-income, very low-income, and moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities. The element may include provisions that specifically address affordable housing for persons 60 years of age or older. Real property that is conveyed to a local government for affordable housing under

this sub-subparagraph shall be disposed of by the local government pursuant to s. 125.379 or s. 166.0451.

e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation, or replacement.

f. The formulation of housing implementation programs.

g. The creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction.

h. Energy efficiency in the design and construction of new housing.

i. Use of renewable energy resources.

j. Each county in which the gap between the buying power of a family of four and the median county home sale price exceeds \$170,000, as determined by the Florida Housing Finance Corporation, and which is not designated as an area of critical state concern shall adopt a plan for ensuring affordable workforce housing. At a minimum, the plan shall identify adequate sites for such housing. For purposes of this sub-subparagraph, the term “workforce housing” means housing that is affordable to natural persons or families whose total household income does not exceed 140 percent of the area median income, adjusted for household size.

k. As a precondition to receiving any state affordable housing funding or allocation for any project or program within the jurisdiction of a county that is subject to sub-subparagraph j., a county must, by July 1 of each year, provide certification that the county has complied with the requirements of sub-subparagraph j.

The goals, objectives, and policies of the housing element must be based on the data and analysis prepared on housing needs, including the affordable housing needs assessment. State and federal housing plans prepared on behalf of the local government must be consistent with the goals, objectives, and policies of the housing element. Local governments are encouraged to use job training, job creation, and economic solutions to address a portion of their affordable housing concerns.

2. To assist local governments in housing data collection and analysis and assure uniform and consistent information regarding the state’s housing needs, the state land planning agency shall conduct an affordable housing needs assessment for all local jurisdictions on a schedule that coordinates the implementation of the needs assessment with the evaluation and appraisal reports required by s. 163.3191. Each local government shall utilize the data and analysis from the needs assessment as one basis for the housing element of its local comprehensive plan. The agency shall allow a local government the option to perform its own needs assessment, if it uses the methodology established by the agency by rule.

Section 4. Subsections (9), (10), and (13) of section 201.15, Florida Statutes, are amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are subject to the service charge imposed in s. 215.20(1). Prior to distribution under this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the collection and enforcement of the tax levied by this chapter. Such costs and the service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. After distributions are made pursuant to subsection (1), all of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2010, secured by revenues distributed pursuant to subsection (1). All taxes remaining after deduction of costs and the service charge shall be distributed as follows:

(9) Seven and fifty-three hundredths ~~The lesser of 7.53 percent of the remaining taxes or \$107 million~~ in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund and used as follows:

(a) Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(10) Eight and sixty-six hundredths ~~The lesser of 8.66 percent of the remaining taxes or \$136 million~~ in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund and used as follows:

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this category may also be used to provide for state and local services to assist the homeless.

(13) In each fiscal year that the remaining taxes exceed collections in the prior fiscal year, the stated maximum dollar amounts provided in

subsections (2), (4), (6), and (7),~~(9), and (10)~~ shall each be increased by an amount equal to 10 percent of the increase in the remaining taxes collected under this chapter multiplied by the applicable percentage provided in those subsections.

Section 5. Section 8 of chapter 2009-131, Laws of Florida, is repealed, retroactive to June 30, 2009.

Section 6. Paragraph (c) of subsection (4) of section 420.0003, Florida Statutes, is amended to read:

420.0003 State housing strategy.—

(4) IMPLEMENTATION.—The Department of Community Affairs and the Florida Housing Finance Corporation in carrying out the strategy articulated herein shall have the following duties:

(c) The Shimberg Center for Affordable Housing, in consultation with the Department of Community Affairs and the Florida Housing Finance Corporation, shall review and evaluate existing housing rehabilitation, production, and finance programs to determine their consistency with relevant policies in this section and identify the needs of specific populations, including, but not limited to, elderly persons, and handicapped persons, and persons with special needs, and shall recommend statutory modifications where appropriate. The Shimberg Center for Affordable Housing, in consultation with the Department of Community Affairs and the corporation, shall also evaluate the degree of coordination between state housing programs, and between state, federal, and local housing activities, and shall recommend improved program linkages. The recommendations required above and a report of any programmatic modifications made as a result of these policies shall be included in the housing report required by s. 420.6075, beginning December 31, 1991, and every 5 years thereafter.

Section 7. Section 420.0004, Florida Statutes, is amended to read:

420.0004 Definitions.—As used in this part, unless the context otherwise indicates:

(1) “Adjusted for family size” means adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, than the base income eligibility determined as provided in subsection (9) ~~(8)~~, subsection (11) ~~(10)~~, subsection (12) ~~(11)~~, or subsection (17) ~~(15)~~, based upon a formula as established by the United States Department of Housing and Urban Development.

(2) “Adjusted gross income” means all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for

family size, less deductions allowable under s. 62 of the Internal Revenue Code.

(3) “Affordable” means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households as indicated in subsection (9) ~~(8)~~, subsection (11) ~~(10)~~, subsection (12) ~~(11)~~, or subsection (17) ~~(15)~~.

(4) “Corporation” means the Florida Housing Finance Corporation.

(5) “Community-based organization” or “nonprofit organization” means a private corporation organized under chapter 617 to assist in the provision of housing and related services on a not-for-profit basis and which is acceptable to federal and state agencies and financial institutions as a sponsor of low-income housing.

(6) “Department” means the Department of Community Affairs.

(7) “Disabling condition” means a diagnosable substance abuse disorder, serious mental illness, developmental disability, or chronic physical illness or disability, or the co-occurrence of two or more of these conditions, and a determination that the condition is:

(a) Expected to be of long-continued and indefinite duration; and

(b) Not expected to impair the ability of the person with special needs to live independently with appropriate supports.

~~(8)(7)~~ “Elderly” describes persons 62 years of age or older.

~~(9)(8)~~ “Extremely-low-income persons” means one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households within the state. The Florida Housing Finance Corporation may adjust this amount annually by rule to provide that in lower income counties, extremely low income may exceed 30 percent of area median income and that in higher income counties, extremely low income may be less than 30 percent of area median income.

~~(10)(9)~~ “Local public body” means any county, municipality, or other political subdivision, or any housing authority as provided by chapter 421, which is eligible to sponsor or develop housing for farmworkers and very-low-income and low-income persons within its jurisdiction.

~~(11)(10)~~ “Low-income persons” means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not

within an MSA, within the county in which the person or family resides, whichever is greater.

~~(12)~~(11) “Moderate-income persons” means one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

(13) “Person with special needs” means an adult person requiring independent living services in order to maintain housing or develop independent living skills and who has a disabling condition; a young adult formerly in foster care who is eligible for services under s. 409.1451(5); a survivor of domestic violence as defined in s. 741.28; or a person receiving benefits under the Social Security Disability Insurance (SSDI) program or the Supplemental Security Income (SSI) program or from veterans’ disability benefits.

~~(14)~~(12) “Student” means any person not living with his or her parent or guardian who is eligible to be claimed by his or her parent or guardian as a dependent under the federal income tax code and who is enrolled on at least a half-time basis in a secondary school, career center, community college, college, or university.

~~(15)~~(13) “Substandard” means:

(a) Any unit lacking complete plumbing or sanitary facilities for the exclusive use of the occupants;

(b) A unit which is in violation of one or more major sections of an applicable housing code and where such violation poses a serious threat to the health of the occupant; or

(c) A unit that has been declared unfit for human habitation but that could be rehabilitated for less than 50 percent of the property value.

~~(16)~~(14) “Substantial rehabilitation” means repair or restoration of a dwelling unit where the value of such repair or restoration exceeds 40 percent of the value of the dwelling.

~~(17)~~(15) “Very-low-income persons” means one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

Section 8. Section 420.0006, Florida Statutes, is amended to read:



420.0006 Authority to contract with corporation; contract requirements; nonperformance.—The secretary of the department shall contract, notwithstanding the provisions of part I of chapter 287, with the Florida Housing Finance Corporation on a multiyear basis to stimulate, provide, and foster affordable housing in the state. The contract must incorporate the performance measures required by s. 420.511 and must be consistent with the provisions of the corporation's strategic plan prepared in accordance with s. 420.511 and ~~compatible with s. 216.0166~~. The contract must provide that, in the event the corporation fails to comply with any of the performance measures required by s. 420.511, the secretary shall notify the Governor and shall refer the nonperformance to the department's inspector general for review and determination as to whether such failure is due to forces beyond the corporation's control or whether such failure is due to inadequate management of the corporation's resources. Advances shall continue to be made pursuant to s. 420.0005 during the pendency of the review by the department's inspector general. If such failure is due to outside forces, it shall not be deemed a violation of the contract. If such failure is due to inadequate management, the department's inspector general shall provide recommendations regarding solutions. The Governor is authorized to resolve any differences of opinion with respect to performance under the contract and may request that advances continue in the event of a failure under the contract due to inadequate management. The Chief Financial Officer shall approve the request absent a finding by the Chief Financial Officer that continuing such advances would adversely impact the state; however, in any event the Chief Financial Officer shall provide advances sufficient to meet the debt service requirements of the corporation and sufficient to fund contracts committing funds from the State Housing Trust Fund so long as such contracts are in accordance with the laws of this state. ~~The department inspector general shall perform for the corporation the functions set forth in s. 20.055 and report to the secretary of the department. The corporation shall be deemed an agency for the purposes of s. 20.055.~~

Section 9. Subsection (3) of section 420.504, Florida Statutes, is amended to read:

420.504 Public corporation; creation, membership, terms, expenses.—

(3) The corporation is a separate budget entity and is not subject to control, supervision, or direction by the Department of Community Affairs in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters. The corporation shall consist of a board of directors composed of the Secretary of Community Affairs as an ex officio and voting member, or a senior-level agency employee designated by the secretary, and eight members appointed by the Governor subject to confirmation by the Senate from the following:

(a) One citizen actively engaged in the residential home building industry.

(b) One citizen actively engaged in the banking or mortgage banking industry.

(c) One citizen who is a representative of those areas of labor engaged in home building.

(d) One citizen with experience in housing development who is an advocate for low-income persons.

(e) One citizen actively engaged in the commercial building industry.

(f) One citizen who is a former local government elected official.

(g) Two citizens of the state who are not principally employed as members or representatives of any of the groups specified in paragraphs (a)-(f).

Section 10. Section 420.506, Florida Statutes, is amended to read:

420.506 Executive director; agents and employees; inspector general.—

(1) The appointment and removal of an executive director shall be by the Secretary of Community Affairs, with the advice and consent of the corporation's board of directors. The executive director shall employ legal and technical experts and such other agents and employees, permanent and temporary, as the corporation may require, and shall communicate with and provide information to the Legislature with respect to the corporation's activities. The board is authorized, notwithstanding the provisions of s. 216.262, to develop and implement rules regarding the employment of employees of the corporation and service providers, including legal counsel. The board of directors of the corporation is entitled to establish travel procedures and guidelines for employees of the corporation. The executive director's office and the corporation's files and records must be located in Leon County.

(2) The appointment and removal of an inspector general shall be by the executive director, with the advice and consent of the corporation's board of directors. The corporation's inspector general shall perform for the corporation the functions set forth in s. 20.055. The inspector general shall administratively report to the executive director. The inspector general shall meet the minimum qualifications as set forth s. 20.055(4). The corporation may establish additional qualifications deemed necessary by the board of directors to meet the unique needs of the corporation. The inspector general shall be responsible for coordinating the responsibilities set forth in s. 420.0006.

Section 11. Paragraph (a) of subsection (22) and subsections (33), (46), and (47) of section 420.507, Florida Statutes, are amended 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 in this chapter based upon available cash flow of the projects. The corporation shall make loans exceeding 25 percent of project cost only to nonprofit organizations and public bodies that 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 set aside at least 80 percent of their total units for residents qualifying as farmworkers, commercial fishing workers, ~~or~~ the homeless as defined in s. 420.621, or persons with special needs as defined in s. 420.0004(13) over the life of the loan.

2. Zero to 3 percent interest based on the pro rata share of units set aside for homeless residents or persons with special needs if the total of such units is less than 80 percent of the units in the borrower's project.

3. One to 9 percent interest for sponsors of projects targeted at populations other than farmworkers, commercial fishing workers, ~~or~~ the homeless, or persons with special needs.

(33) To receive federal funding in connection with the corporation's programs directly from the Federal Government and to receive federal funds for which no corresponding program has been created in statute and establish selection criteria for such funds by request for proposals or other competitive solicitation.

(46) To require, as a condition of financing a multifamily rental project, that an agreement be recorded in the official records of the county where the real property is located, which requires that the project be used for housing defined as affordable in s. 420.0004(3) by persons defined in s. 420.0004(9)(8), (11) (10), (12) (11), and (17) (15). Such an agreement is a state land use regulation that limits the highest and best use of the property within the meaning of s. 193.011(2).

(47) To provide by rule, in connection with any corporation competitive program, criteria establishing, where all other competitive elements are equal, a preference for developers and general contractors who demonstrate the highest rate of Florida job creation in the development and construction of affordable housing domiciled in this state and for developers and general contractors, regardless of domicile, who have substantial experience in

~~developing or building affordable housing through the corporation's programs.~~

~~(a) In evaluating whether a developer or general contractor is domiciled in this state, the corporation shall consider whether the developer's or general contractor's principal office is located in this state and whether a majority of the developer's or general contractor's principals and financial beneficiaries reside in Florida.~~

~~(b) In evaluating whether a developer or general contractor has substantial experience, the corporation shall consider whether the developer or general contractor has completed at least five developments using funds either provided by or administered by the corporation.~~

Section 12. Subsection (3) and paragraph (c) of subsection (6) of section 420.5087, Florida Statutes, are 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.

(3) During the first 6 months of loan or loan guarantee availability, program funds shall be reserved for use by sponsors who provide the housing set-aside required in subsection (2) for the tenant groups designated in this subsection. The reservation of funds to each of these groups shall be determined using the most recent statewide very-low-income rental housing market study available at the time of publication of each notice of fund availability required by paragraph (6)(b). The reservation of funds within each notice of fund availability to the tenant groups in paragraphs (a), (b), and ~~(e)~~ (d) may not be less than 10 percent of the funds available at that time. Any increase in funding required to reach the 10-percent minimum must be taken from the tenant group that has the largest reservation. The reservation of funds within each notice of fund availability to the tenant group in paragraph (c) may not be less than 5 percent of the funds available at that time. The reservation of funds within each notice of fund availability to the tenant group in paragraph (d) may not be more than 10 percent of the funds available at that time. The tenant groups are:

- (a) Commercial fishing workers and farmworkers;
- (b) Families;
- (c) Persons who are homeless;
- (d) Persons with special needs; and

~~(e)(d)~~ Elderly persons. Ten percent of the amount reserved for the elderly shall be reserved to provide loans to sponsors of housing for the elderly for the purpose of making building preservation, health, or sanitation repairs or

improvements which are required by federal, state, or local regulation or code, or lifesafety or security-related repairs or improvements to such housing. Such a loan may not exceed \$750,000 per housing community for the elderly. In order to receive the loan, the sponsor of the housing community must make a commitment to match at least 5 percent of the loan amount to pay the cost of such repair or improvement. The corporation shall establish the rate of interest on the loan, which may not exceed 3 percent, and the term of the loan, which may not exceed 15 years; however, if the lien of the corporation's encumbrance is subordinate to the lien of another mortgagee, then the term may be made coterminous with the longest term of the superior lien. The term of the loan shall be based on a credit analysis of the applicant. The corporation may forgive indebtedness for a share of the loan attributable to the units in a project reserved for extremely-low-income elderly by nonprofit organizations, as defined in s. 420.0004(5), where the project has provided affordable housing to the elderly for 15 years or more. The corporation shall establish, by rule, the procedure and criteria for receiving, evaluating, and competitively ranking all applications for loans under this paragraph. A loan application must include evidence of the first mortgagee's having reviewed and approved the sponsor's intent to apply for a loan. A nonprofit organization or sponsor may not use the proceeds of the loan to pay for administrative costs, routine maintenance, or new construction.

(6) On all state apartment incentive loans, except loans made to housing communities for the elderly to provide for lifesafety, building preservation, health, sanitation, or security-related repairs or improvements, the following provisions shall apply:

(c) The corporation shall provide by rule for the establishment of a review committee composed of the department and corporation staff and shall establish by rule a scoring system for evaluation and competitive ranking of applications submitted in this program, including, but not limited to, the following criteria:

1. Tenant income and demographic targeting objectives of the corporation.
2. Targeting objectives of the corporation which will ensure an equitable distribution of loans between rural and urban areas.
3. Sponsor's agreement to reserve the units for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, for a time period to exceed the minimum required by federal law or the provisions of this part.
4. Sponsor's agreement to reserve more than:
  - a. Twenty percent of the units in the project for persons or families who have incomes that do not exceed 50 percent of the state or local median income, whichever is higher; or

b. Forty percent of the units in the project for persons or families who have incomes that do not exceed 60 percent of the state or local median income, whichever is higher, without requiring a greater amount of the loans as provided in this section.

5. Provision for tenant counseling.

6. Sponsor's agreement to accept rental assistance certificates or vouchers as payment for rent.

7. Projects requiring the least amount of a state apartment incentive loan compared to overall project cost except that the share of the loan attributable to units serving extremely-low-income persons shall be excluded from this requirement.

8. Local government contributions and local government comprehensive planning and activities that promote affordable housing.

9. Project feasibility.

10. Economic viability of the project.

11. Commitment of first mortgage financing.

12. Sponsor's prior experience, ~~including whether the developer and general contractor have substantial experience, as provided in s. 420.507(47).~~

13. Sponsor's ability to proceed with construction.

14. Projects that directly implement or assist welfare-to-work transitioning.

15. Projects that reserve units for extremely-low-income persons.

16. Projects that include green building principles, storm-resistant construction, or other elements that reduce long-term costs relating to maintenance, utilities, or insurance.

17. Job-creation rate ~~Domicile~~ of the developer and general contractor, as provided in s. 420.507(47).

Section 13. Paragraphs (d), (e), (f), and (g) of subsection (2) of section 163.31771, Florida Statutes, are amended to read:

163.31771 Accessory dwelling units.—

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

(d) "Low-income persons" has the same meaning as in s. 420.0004(11)(10).

(e) “Moderate-income persons” has the same meaning as in s. ~~420.0004(12)(11)~~.

(f) “Very-low-income persons” has the same meaning as in s. ~~420.0004(17)(15)~~.

(g) “Extremely-low-income persons” has the same meaning as in s. ~~420.0004(9)(8)~~.

Section 14. Paragraph (o) of subsection (5) of section 212.08, Florida Statutes, is amended 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.—

(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 or the construction in a designated brownfield area of affordable housing for persons described in s. ~~420.0004(9)(8)~~, ~~(11)(10)~~, ~~(12)(11)~~, or ~~(17)(15)~~ or in s. 159.603(7).

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 code 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 code 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.

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 15. Paragraphs (a) and (g) of subsection (2) of section 215.5586, Florida Statutes, are amended to read:

215.5586 My Safe Florida Home Program.—There is established within the Department of Financial Services the My Safe Florida Home Program. The department shall provide fiscal accountability, contract management, and strategic leadership for the program, consistent with this section. This section does not create an entitlement for property owners or obligate the state in any way to fund the inspection or retrofitting of residential property in this state. Implementation of this program is subject to annual legislative appropriations. It is the intent of the Legislature that the My Safe Florida Home Program provide trained and certified inspectors to perform inspections for owners of site-built, single-family, residential properties and grants to eligible applicants as funding allows. The program shall develop and



implement a comprehensive and coordinated approach for hurricane damage mitigation that may include the following:

(2) MITIGATION GRANTS.—Financial grants shall be used to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage.

(a) For a homeowner to be eligible for a grant, the following criteria must be met:

1. The homeowner must have been granted a homestead exemption on the home under chapter 196.

2. The home must be a dwelling with an insured value of \$300,000 or less. Homeowners who are low-income persons, as defined in s. 420.0004(11)(10), are exempt from this requirement.

3. The home must have undergone an acceptable hurricane mitigation inspection after May 1, 2007.

4. The home must be located in the “wind-borne debris region” as that term is defined in s. 1609.2, International Building Code (2006), or as subsequently amended.

5. The building permit application for initial construction of the home must have been made before March 1, 2002.

An application for a grant must contain a signed or electronically verified statement made under penalty of perjury that the applicant has submitted only a single application and must have attached documents demonstrating the applicant meets the requirements of this paragraph.

(g) Low-income homeowners, as defined in s. 420.0004(11)(10), who otherwise meet the requirements of paragraphs (a), (c), (e), and (f) are eligible for a grant of up to \$5,000 and are not required to provide a matching amount to receive the grant. Additionally, for low-income homeowners, grant funding may be used for repair to existing structures leading to any of the mitigation improvements provided in paragraph (e), limited to 20 percent of the grant value. The program may accept a certification directly from a low-income homeowner that the homeowner meets the requirements of s. 420.0004(11)(10) if the homeowner provides such certification in a signed or electronically verified statement made under penalty of perjury.

Section 16. Subsection (19) of section 420.503, Florida Statutes, is amended to read:

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

(19) “Housing for the elderly” means, for purposes of s. 420.5087(3)(e)(d), 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)(e)(~~d~~) 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 17. (1) The Legislature finds that due to the current economic conditions in the housing market there is a critical need to rehabilitate or sell excess inventory of unsold homes, including foreclosed homes and newly constructed homes, as well as a critical need for the rehabilitation and preservation of older, affordable apartments. The Legislature further finds that there is a critical need to create housing-related jobs and that these conditions require the targeting of state and local housing trust fund moneys to assist in the sale or rehabilitation of existing homes and the preservation and rehabilitation of older rental apartments.

(2) Notwithstanding ss. 420.507(22)(a) and (23)(a), 420.5087(6)(1), 420.5088, 420.5095, and 420.9075(1)(b) and (5)(b), Florida Statutes, funds from the State Housing Trust Fund or the Local Government Housing Trust Fund that are appropriated for use in the State Apartment Incentive Loan Program, Florida Homeownership Assistance Program, Community Workforce Housing Innovation Pilot Program, or the State Housing Initiatives Partnership Program may not be used to:

(a) Finance or otherwise assist the construction or purchase of housing sold to eligible individuals, unless the housing unit being sold had an initial certificate of occupancy prior to December 31, 2010; or

(b) Finance or otherwise assist in the construction or purchase of rental housing, unless the development being financed or assisted received its initial certificate of occupancy prior to December 31, 1996.

Nothing in this section restricts the use of such funds to assist with the purchase of newly constructed homes that were completed prior to December 31, 2010, or the acquisition and rehabilitation of apartments that received their initial certificate of occupancy prior to December 31, 1996. The use of such funds is subject to the restrictions of the program under which the funding is made available.

(3) This section expires July 1, 2012.

Section 18. This act shall take effect July 1, 2011.

Approved by the Governor June 21, 2011.

Filed in Office Secretary of State June 21, 2011.