

## CHAPTER 2022-194

### Committee Substitute for Senate Bill No. 196

An act relating to the Florida Housing Finance Corporation; amending s. 420.503, F.S.; defining the terms “bona fide contract” and “qualified contract” for purposes of the Florida Housing Finance Corporation Act; amending s. 420.5087, F.S.; deleting certain limitations and restrictions on, and requirements for, loans made by the corporation to sponsors of housing for the elderly under the State Apartment Incentive Loan Program; deleting the authority of the corporation to forgive certain indebtedness; deleting provisions relating to loan applications; amending s. 420.509, F.S.; designating the corporation, rather than the State Board of Administration, as the state fiscal agency to make determinations in connection with specified bonds; authorizing the corporation’s board of directors, rather than the State Board of Administration, to delegate to its executive director the authority and power to perform that function; requiring the executive director to annually report specified information to the board of directors, rather than the State Board of Administration; revising applicable interest rate limitations on bonds of the corporation; amending s. 420.5099, F.S.; providing construction relating to low-income tax credit developments if a qualified contract does not close for specified reasons; providing requirements for the corporation and an owner if a qualified contract does not close for any other reason; providing construction if no other qualified contract is presented to the owner within a certain period; amending s. 420.5092, F.S.; conforming a provision to changes made by the act; amending s. 420.628, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Present subsections (4) through (34) and (35) through (43) of section 420.503, Florida Statutes, are redesignated as subsections (5) through (35) and (37) through (45), respectively, new subsections (4) and (36) are added to that section, and present subsection (15) of that section is amended, to read:

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

(4) “Bona fide contract” means a certain and unambiguous offer to purchase the development for an amount equaling or exceeding the qualified contract purchase price which is made in good faith by a qualified purchaser with the intent that such offer result in the execution of an enforceable, valid, and binding contract to purchase and which includes:

(a) A requirement for the purchaser to make an initial nonrefundable earnest money deposit of at least \$50,000, to be placed in escrow, unless waived in writing by the owner; and

(b) A requirement for the purchaser to make a second nonrefundable earnest money deposit equal to 3 percent of the qualified contract price within 15 business days after the end of the due diligence period, unless waived in writing by the owner and subject to any rights reserved by the purchaser in the event of the owner's failure to deliver insurable title or in the event of the owner's default.

A bona fide contract may require that the initial earnest money deposit and the second earnest money deposit be refundable in the event of the owner's failure to deliver insurable title at closing; the owner's termination of a fully executed contract due to a reason other than the default of the purchaser, or as may be provided for in the contract; or the owner's default.

~~(16)~~(15) "Elderly" means persons 62 years of age or older; however, this definition does not prohibit housing from being deemed housing for the elderly as defined in subsection ~~(21)~~(20) if such housing otherwise meets the requirements of subsection ~~(21)~~(20).

(36) "Qualified contract" has the same meaning as in 26 U.S.C. s. 42(h)(6)(F) in effect on the date of the preliminary determination certificate for the low-income housing tax credits for the development that is the subject of the qualified contract request, unless the Internal Revenue Code requires a different statute or regulation to apply to the development. The corporation shall deem a bona fide contract to be a qualified contract at the time the second earnest money deposit is deposited in escrow in accordance with the terms of the bona fide contract and, in such event, the corporation is deemed to have fulfilled its responsibility to present the owner with a qualified contract.

Section 2. Subsection (3) 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.

(3) During the first 6 months of loan or loan guarantee availability, program funds shall be made available for use by sponsors who provide the housing set-aside required in subsection (2) for the tenant groups designated in this subsection. The funds made available 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 funds made available within each notice of fund availability to the tenant groups in paragraphs (b)-(e) may not be less than 10 percent of the funds available at that time. Any increase in funding required to reach the required minimum must be taken from the tenant group that would receive the largest percentage of available funds in accordance with the study. The funds made available within each

notice of fund availability to the tenant group in paragraph (a) may not be less than 5 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) Elderly persons. Ten percent of the amount made available for the elderly shall 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.~~

Section 3. Subsections (2) and (4) of section 420.509, Florida Statutes, are amended to read:

420.509 Revenue bonds.—

(2) The corporation ~~State Board of Administration~~ is designated as the state fiscal agency to make the determinations required by s. 16, Art. VII of the State Constitution in connection with the issuance of such bonds that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the same pledged revenues exceed the pledged revenues available for such debt service requirements. The corporation's board of directors ~~State Board of Administration~~ may

delegate to its executive director the authority and power to perform that function ~~without further review of the agency~~. The determinations pursuant to this ~~subsection~~ paragraph are limited to a review of the matters essential to making the determinations required by s. 16, Art. VII of the State Constitution. The executive director shall report annually to the ~~board~~ State Board of Administration and the Legislature regarding the number of bond issues considered and the determination with respect thereto.

(4) Bonds of the corporation may:

(a) Bear interest at a rate or rates not exceeding the interest rate limitation set forth in ~~s. 159.825 or s. 215.84, as applicable~~ s. 215.84(3), unless the ~~State Board of Administration~~ authorizes an interest rate in excess of such maximum;

(b) Have such provisions for payment at maturity and redemption before maturity at such time or times and at such price or prices; and

(c) Be payable at such place or places within or without the state as the board determines by resolution.

Section 4. Present subsection (7) of section 420.5099, Florida Statutes, is redesignated as subsection (8), and a new subsection (7) is added to that section, to read:

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

(7) For the further purpose of implementing this program in this state, if a qualified contract does not close due to a default of the owner, the termination by the owner due to a reason other than the purchaser's default, or as otherwise provided for in the bona fide contract, the development must remain subject to the extended use agreement, and the owner is deemed to have waived any right or option to submit another qualified contract request for the development. If a qualified contract does not close for any other reason, the corporation must continue to seek offers at the qualified contract price through the end of the 1-year period, and the owner's obligation to cooperate in the marketing of the project must continue. If no other qualified contract is presented to the owner during the 1-year period, the project must be treated as if no qualified contract had been presented, and the extended use period is terminated.

Section 5. Paragraph (b) of subsection (6) of section 420.5092, Florida Statutes, is amended to read:

420.5092 Florida Affordable Housing Guarantee Program.—

(6)

(b) If the claims payment obligations under affordable housing guarantees from amounts on deposit in the guarantee fund would cause the claims paying rating assigned to the guarantee fund to be less than the third-

highest rating classification of any nationally recognized rating service, which classifications being consistent with s. 215.84(3) and rules adopted thereto by the State Board of Administration, the corporation shall certify to the Chief Financial Officer the amount of such claims payment obligations. Upon receipt of such certification, the Chief Financial Officer shall transfer to the guarantee fund, from the first available taxes distributed to the State Housing Trust Fund pursuant to s. 201.15(4)(c) and (d) during the ensuing state fiscal year, the amount certified as necessary to meet such obligations, such transfer to be subordinate to any transfer referenced in paragraph (a) and not to exceed 50 percent of the amounts distributed to the State Housing Trust Fund pursuant to s. 201.15(4)(c) and (d) during the preceding state fiscal year.

Section 6. Subsection (2) of section 420.628, Florida Statutes, is amended to read:

420.628 Affordable housing for children and young adults leaving foster care; legislative findings and intent.—

(2) Young adults who leave the child welfare system meet the definition of eligible persons under ss. 420.503(18) and 420.9071(11) ~~ss. 420.503(17) and 420.9071(11)~~ for affordable housing, and are encouraged to participate in federal, state, and local affordable housing programs. Students deemed to be eligible occupants under 26 U.S.C. s. 42(i)(3)(D) shall be considered eligible persons for purposes of all projects funded under this chapter.

Section 7. This act shall take effect July 1, 2022.

Approved by the Governor June 20, 2022.

Filed in Office Secretary of State June 20, 2022.