

By Senator Bennett

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1 A bill to be entitled
2 An act relating to affordable housing; reenacting s.
3 159.807(4), F.S., relating to the state allocation
4 pool used to confirm private activity bonds;
5 reenacting s. 193.018, F.S., relating to lands that
6 are owned by a community land trust and used to
7 provide affordable housing; reenacting s. 196.196(5),
8 F.S., relating to a tax exemption provided to
9 organizations that provide low-income housing;
10 reenacting s. 196.1978, F.S., relating to a property
11 exemption for affordable housing owned by a nonprofit
12 entity; reenacting s. 212.055(2)(d), F.S., relating to
13 the use of a local government infrastructure surtax;
14 reenacting s. 163.3202(2), F.S., relating to
15 requirements for local land development regulations;
16 reenacting s. 420.503(25), F.S., relating to a
17 definition under the Florida Housing Finance
18 Corporation Act; reenacting s. 420.507(47), F.S.,
19 relating to powers of the corporation to select
20 developers and general contractors; reenacting s.
21 420.5087(6)(c) and (l), F.S., relating to the State
22 Apartment Incentive Loan Program; reenacting s.
23 420.622(5), F.S., relating to the State Office on
24 Homelessness; reenacting s. 420.628, F.S., relating to
25 affordable housing for children and young adults
26 leaving foster care; reenacting s. 420.9071(4), (8),
27 (16), (25), (29), and (30), F.S., relating to
28 definitions under the State Housing Initiatives
29 Partnership Act; reenacting s. 420.9072(6) and (7),

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F.S., relating to the distribution of funds under the State Housing Initiatives Partnership Program; reenacting s. 420.9073(1), (2), (5), (6), and (7), F.S., relating to distributions of local housing funds; reenacting s. 420.9075(1), (3), (5), (8), (10)(a) and (h), (13)(b), and (14), F.S., relating to local housing assistance plans; reenacting s. 420.9076(2)(h), (5), (6), and (7)(a), F.S., relating to the adoption of affordable housing incentive strategies by the governing board of a county or municipality; repealing s. 420.9078, F.S., relating to the state administration of funds remaining in the Local Government Housing Trust Fund; reenacting s. 420.9079, F.S., relating to the Local Government Housing Trust Fund; reenacting s. 1001.43(12), F.S., relating to the use by school districts of certain lands for affordable housing; providing for retroactive operation of the act with respect to provisions of law amended, created, or repealed by chapter 2009-96, Laws of Florida; providing for an exception under specified circumstances; providing an effective date.

WHEREAS, the Florida Legislature enacted Senate Bill 360 in 2009 for important public policy purposes, and

WHEREAS, litigation has called into question the constitutional validity of this important piece of legislation, and

WHEREAS, the Legislature wishes to protect those who relied

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on the changes made by Senate Bill 360 and to preserve the
Florida Statutes intact and cure any alleged constitutional
violation, NOW, THEREFORE,

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

Section 1. Subsection (4) of section 159.807, Florida
Statutes, is reenacted to read:

159.807 State allocation pool.—

(4)(a) The state allocation pool shall also be used to
provide written confirmations for private activity bonds that
are to be issued by state agencies, which bonds, notwithstanding
any other provisions of this part, shall receive priority in the
use of the pool available at the time the notice of intent to
issue such bonds is filed with the division.

(b) Notwithstanding the provisions of paragraph (a), on or
before November 15 of each year, the Florida Housing Finance
Corporation's access to the state allocation pool is limited to
the amount of the corporation's initial allocation under s.
159.804. Thereafter, the corporation may not receive more than
80 percent of the amount in the state allocation pool on
November 16 of each year, and may not receive more than 80
percent of any additional amounts that become available during
each year. The limitations of this paragraph do not apply to the
distribution of the unused allocation of the state volume
limitation to the Florida Housing Finance Corporation under s.
159.81(2)(b), (c), and (d).

Section 2. Section 193.018, Florida Statutes, is reenacted
to read:

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193.018 Land owned by a community land trust used to provide affordable housing; assessment; structural improvements, condominium parcels, and cooperative parcels.—

(1) As used in this section, the term "community land trust" means a nonprofit entity that is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and has as one of its purposes the acquisition of land to be held in perpetuity for the primary purpose of providing affordable homeownership.

(2) A community land trust may convey structural improvements, condominium parcels, or cooperative parcels, that are located on specific parcels of land that are identified by a legal description contained in and subject to a ground lease having a term of at least 99 years, for the purpose of providing affordable housing to natural persons or families who meet the extremely-low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004, or the income limits for workforce housing, as defined in s. 420.5095(3). A community land trust shall retain a preemptive option to purchase any structural improvements, condominium parcels, or cooperative parcels on the land at a price determined by a formula specified in the ground lease which is designed to ensure that the structural improvements, condominium parcels, or cooperative parcels remain affordable.

(3) In arriving at just valuation under s. 193.011, a structural improvement, condominium parcel, or cooperative parcel providing affordable housing on land owned by a community land trust, and the land owned by a community land trust that is subject to a 99-year or longer ground lease, shall be assessed using the following criteria:

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117 (a) The amount a willing purchaser would pay a willing
118 seller for the land is limited to an amount commensurate with
119 the terms of the ground lease that restricts the use of the land
120 to the provision of affordable housing in perpetuity.

121 (b) The amount a willing purchaser would pay a willing
122 seller for resale-restricted improvements, condominium parcels,
123 or cooperative parcels is limited to the amount determined by
124 the formula in the ground lease.

125 (c) If the ground lease and all amendments and supplements
126 thereto, or a memorandum documenting how such lease and
127 amendments or supplements restrict the price at which the
128 improvements, condominium parcels, or cooperative parcels may be
129 sold, is recorded in the official public records of the county
130 in which the leased land is located, the recorded lease and any
131 amendments and supplements, or the recorded memorandum, shall be
132 deemed a land use regulation during the term of the lease as
133 amended or supplemented.

134 Section 3. Subsection (5) of section 196.196, Florida
135 Statutes, is reenacted to read:

136 196.196 Determining whether property is entitled to
137 charitable, religious, scientific, or literary exemption.—

138 (5)(a) Property owned by an exempt organization qualified
139 as charitable under s. 501(c)(3) of the Internal Revenue Code is
140 used for a charitable purpose if the organization has taken
141 affirmative steps to prepare the property to provide affordable
142 housing to persons or families that meet the extremely-low-
143 income, very-low-income, low-income, or moderate-income limits,
144 as specified in s. 420.0004. The term "affirmative steps" means
145 environmental or land use permitting activities, creation of

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146 architectural plans or schematic drawings, land clearing or site
147 preparation, construction or renovation activities, or other
148 similar activities that demonstrate a commitment of the property
149 to providing affordable housing.

150 (b)1. If property owned by an organization granted an
151 exemption under this subsection is transferred for a purpose
152 other than directly providing affordable homeownership or rental
153 housing to persons or families who meet the extremely-low-
154 income, very-low-income, low-income, or moderate-income limits,
155 as specified in s. 420.0004, or is not in actual use to provide
156 such affordable housing within 5 years after the date the
157 organization is granted the exemption, the property appraiser
158 making such determination shall serve upon the organization that
159 illegally or improperly received the exemption a notice of
160 intent to record in the public records of the county a notice of
161 tax lien against any property owned by that organization in the
162 county, and such property shall be identified in the notice of
163 tax lien. The organization owning such property is subject to
164 the taxes otherwise due and owing as a result of the failure to
165 use the property to provide affordable housing plus 15 percent
166 interest per annum and a penalty of 50 percent of the taxes
167 owed.

168 2. Such lien, when filed, attaches to any property
169 identified in the notice of tax lien owned by the organization
170 that illegally or improperly received the exemption. If such
171 organization no longer owns property in the county but owns
172 property in any other county in the state, the property
173 appraiser shall record in each such other county a notice of tax
174 lien identifying the property owned by such organization in such

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175 county which shall become a lien against the identified
176 property. Before any such lien may be filed, the organization so
177 notified must be given 30 days to pay the taxes, penalties, and
178 interest.

179 3. If an exemption is improperly granted as a result of a
180 clerical mistake or an omission by the property appraiser, the
181 organization improperly receiving the exemption shall not be
182 assessed a penalty or interest.

183 4. The 5-year limitation specified in this subsection may
184 be extended if the holder of the exemption continues to take
185 affirmative steps to develop the property for the purposes
186 specified in this subsection.

187 Section 4. Section 196.1978, Florida Statutes, is reenacted
188 to read:

189 196.1978 Affordable housing property exemption.—Property
190 used to provide affordable housing serving eligible persons as
191 defined by s. 159.603(7) and natural persons or families meeting
192 the extremely-low-income, very-low-income, low-income, or
193 moderate-income limits specified in s. 420.0004, which property
194 is owned entirely by a nonprofit entity that is a corporation
195 not for profit, qualified as charitable under s. 501(c)(3) of
196 the Internal Revenue Code and in compliance with Rev. Proc. 96-
197 32, 1996-1 C.B. 717, or a Florida-based limited partnership, the
198 sole general partner of which is a corporation not for profit
199 which is qualified as charitable under s. 501(c)(3) of the
200 Internal Revenue Code and which complies with Rev. Proc. 96-32,
201 1996-1 C.B. 717, shall be considered property owned by an exempt
202 entity and used for a charitable purpose, and those portions of
203 the affordable housing property which provide housing to natural

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persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004 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 or limited partnership 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 or sole general partner.

Section 5. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is reenacted to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the

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233 school district, within the county and municipalities within the
234 county, or, in the case of a negotiated joint county agreement,
235 within another county, to finance, plan, and construct
236 infrastructure; to acquire land for public recreation,
237 conservation, or protection of natural resources; or to finance
238 the closure of county-owned or municipally owned solid waste
239 landfills that have been closed or are required to be closed by
240 order of the Department of Environmental Protection. Any use of
241 the proceeds or interest for purposes of landfill closure before
242 July 1, 1993, is ratified. The proceeds and any interest may not
243 be used for the operational expenses of infrastructure, except
244 that a county that has a population of fewer than 75,000 and
245 that is required to close a landfill may use the proceeds or
246 interest for long-term maintenance costs associated with
247 landfill closure. Counties, as defined in s. 125.011, and
248 charter counties may, in addition, use the proceeds or interest
249 to retire or service indebtedness incurred for bonds issued
250 before July 1, 1987, for infrastructure purposes, and for bonds
251 subsequently issued to refund such bonds. Any use of the
252 proceeds or interest for purposes of retiring or servicing
253 indebtedness incurred for refunding bonds before July 1, 1999,
254 is ratified.

255 1. For the purposes of this paragraph, the term
256 "infrastructure" means:

257 a. Any fixed capital expenditure or fixed capital outlay
258 associated with the construction, reconstruction, or improvement
259 of public facilities that have a life expectancy of 5 or more
260 years and any related land acquisition, land improvement,
261 design, and engineering costs.

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b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. 29.008.

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s.

252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a

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291 local government or by a special district that enters into a
292 written agreement with the local government to provide such
293 housing. The local government or special district may enter into
294 a ground lease with a public or private person or entity for
295 nominal or other consideration for the construction of the
296 residential housing project on land acquired pursuant to this
297 sub-subparagraph.

298 2. Notwithstanding any other provision of this subsection,
299 a local government infrastructure surtax imposed or extended
300 after July 1, 1998, may allocate up to 15 percent of the surtax
301 proceeds for deposit in a trust fund within the county's
302 accounts created for the purpose of funding economic development
303 projects having a general public purpose of improving local
304 economies, including the funding of operational costs and
305 incentives related to economic development. The ballot statement
306 must indicate the intention to make an allocation under the
307 authority of this subparagraph.

308 Section 6. Subsection (2) of section 163.3202, Florida
309 Statutes, is reenacted to read:

310 163.3202 Land development regulations.—

311 (2) Local land development regulations shall contain
312 specific and detailed provisions necessary or desirable to
313 implement the adopted comprehensive plan and shall at a minimum:

314 (a) Regulate the subdivision of land.

315 (b) Regulate the use of land and water for those land use
316 categories included in the land use element and ensure the
317 compatibility of adjacent uses and provide for open space.

318 (c) Provide for protection of potable water wellfields.

319 (d) Regulate areas subject to seasonal and periodic

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320 flooding and provide for drainage and stormwater management.

321 (e) Ensure the protection of environmentally sensitive
322 lands designated in the comprehensive plan.

323 (f) Regulate signage.

324 (g) Provide that public facilities and services meet or
325 exceed the standards established in the capital improvements
326 element required by s. 163.3177 and are available when needed
327 for the development, or that development orders and permits are
328 conditioned on the availability of these public facilities and
329 services necessary to serve the proposed development. A local
330 government may not issue a development order or permit that
331 results in a reduction in the level of services for the affected
332 public facilities below the level of services provided in the
333 local government's comprehensive plan.

334 (h) Ensure safe and convenient onsite traffic flow,
335 considering needed vehicle parking.

336 (i) Maintain the existing density of residential properties
337 or recreational vehicle parks if the properties are intended for
338 residential use and are located in the unincorporated areas that
339 have sufficient infrastructure, as determined by a local
340 governing authority, and are not located within a coastal high-
341 hazard area under s. 163.3178.

342 Section 7. Subsection (25) of section 420.503, Florida
343 Statutes, is reenacted to read:

344 420.503 Definitions.—As used in this part, the term:

345 (25) "Moderate rehabilitation" means repair or restoration
346 of a dwelling unit when the value of such repair or restoration
347 is 40 percent or less of the value of the dwelling unit but not
348 less than \$10,000.

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349 Section 8. Subsection (47) of section 420.507, Florida
350 Statutes, is reenacted to read:

351 420.507 Powers of the corporation.—The corporation shall
352 have all the powers necessary or convenient to carry out and
353 effectuate the purposes and provisions of this part, including
354 the following powers which are in addition to all other powers
355 granted by other provisions of this part:

356 (47) To provide by rule in connection with any corporation
357 competitive program, criteria establishing a preference for
358 developers and general contractors domiciled in this state and
359 for developers and general contractors, regardless of domicile,
360 who have substantial experience in developing or building
361 affordable housing through the corporation's programs.

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

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

373 Section 9. Paragraphs (c) and (1) of subsection (6) of
374 section 420.5087, Florida Statutes, are reenacted to read:

375 420.5087 State Apartment Incentive Loan Program.—There is
376 hereby created the State Apartment Incentive Loan Program for
377 the purpose of providing first, second, or other subordinated

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378 mortgage loans or loan guarantees to sponsors, including for-
379 profit, nonprofit, and public entities, to provide housing
380 affordable to very-low-income persons.

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

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

392 1. Tenant income and demographic targeting objectives of
393 the corporation.

394 2. Targeting objectives of the corporation which will
395 ensure an equitable distribution of loans between rural and
396 urban areas.

397 3. Sponsor's agreement to reserve the units for persons or
398 families who have incomes below 50 percent of the state or local
399 median income, whichever is higher, for a time period to exceed
400 the minimum required by federal law or the provisions of this
401 part.

402 4. Sponsor's agreement to reserve more than:

403 a. Twenty percent of the units in the project for persons
404 or families who have incomes that do not exceed 50 percent of
405 the state or local median income, whichever is higher; or

406 b. Forty percent of the units in the project for persons or

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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. Domicile of the developer and general contractor, as

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provided in s. 420.507(47).

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

Section 10. Subsection (5) of section 420.622, Florida Statutes, is reenacted to read:

420.622 State Office on Homelessness; Council on Homelessness.—

(5) The State Office on Homelessness, with the concurrence of the Council on Homelessness, may administer moneys appropriated to it to provide homeless housing assistance grants annually to lead agencies for local homeless assistance continuum of care, as recognized by the State Office on Homelessness, to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons. These moneys shall consist of any sums that the state may appropriate, as well as money received from donations, gifts, bequests, or otherwise from any public or private source, which are intended to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons.

(a) Grant applicants shall be ranked competitively. Preference must be given to applicants who leverage additional private funds and public funds, particularly federal funds designated for the acquisition, construction, or rehabilitation of transitional or permanent housing for homeless persons; who acquire, build, or rehabilitate the greatest number of units; and who acquire, build, or rehabilitate in catchment areas having the greatest need for housing for the homeless relative

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to the population of the catchment area.

(b) Funding for any particular project may not exceed \$750,000.

(c) Projects must reserve, for a minimum of 10 years, the number of units acquired, constructed, or rehabilitated through homeless housing assistance grant funding to serve persons who are homeless at the time they assume tenancy.

(d) No more than two grants may be awarded annually in any given local homeless assistance continuum of care catchment area.

(e) A project may not be funded which is not included in the local homeless assistance continuum of care plan, as recognized by the State Office on Homelessness, for the catchment area in which the project is located.

(f) The maximum percentage of funds that the State Office on Homelessness and each applicant may spend on administrative costs is 5 percent.

Section 11. Section 420.628, Florida Statutes, is reenacted to read:

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

(1)(a) The Legislature finds that there are many young adults who, through no fault of their own, live in foster families, group homes, and institutions, and face numerous barriers to a successful transition to adulthood. Young adults who are leaving the child welfare system may enter adulthood lacking the knowledge, skills, attitudes, habits, and relationships that will enable them to become productive members of society.

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(b) The Legislature further finds that the main barriers to safe and affordable housing for such young adults are cost, lack of availability, the unwillingness of landlords to rent to such youth due to perceived regulatory barriers, and a lack of knowledge about how to be a good tenant. These barriers cause young adults to be at risk of becoming homeless.

(c) The Legislature also finds that young adults who leave the child welfare system are disproportionately represented in the homeless population. Without the stability of safe and affordable housing, all other services, training, and opportunities provided to such young adults may not be effective. Making affordable housing available will decrease the chance of homelessness and may increase the ability of such young adults to live independently.

(d) The Legislature intends that the Florida Housing Finance Corporation, agencies within the State Housing Initiative Partnership Program, local housing finance agencies, public housing authorities, and their agents, and other providers of affordable housing coordinate with the Department of Children and Family Services, their agents, and community-based care providers who provide services under s. 409.1671 to develop and implement strategies and procedures designed to make affordable housing available whenever and wherever possible to young adults who leave the child welfare system.

(2) Young adults who leave the child welfare system meet the definition of eligible persons under ss. 420.503(17) and 420.9071(10) for affordable housing, and are encouraged to participate in federal, state, and local affordable housing programs. Students deemed to be eligible occupants under 26

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U.S.C. s. 42(i)(3)(D) shall be considered eligible persons for purposes of all projects funded under this chapter.

Section 12. Subsections (4), (8), (16), (25), (29), and (30) of section 420.9071, Florida Statutes, are reenacted 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 or as defined by standard practices used in the lending industry as detailed in the local housing assistance plan and approved by the corporation. Counties and eligible municipalities shall calculate income by annualizing verified sources of income for the household as the amount of income to be received in a household during the 12 months following the effective date of the determination.

(8) "Eligible housing" means any real and personal property located within the county or the eligible municipality which is designed and intended for the primary purpose of providing decent, safe, and sanitary residential units that are designed to meet the standards of the Florida Building Code or previous building codes adopted under chapter 553, or manufactured housing constructed after June 1994 and installed in accordance with the installation standards for mobile or manufactured homes contained in rules of the Department of Highway Safety and Motor

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Vehicles, for home ownership or rental for eligible persons as designated by each county or eligible municipality participating in the State Housing Initiatives Partnership Program.

(16) "Local housing incentive strategies" means local regulatory reform or incentive programs to encourage or facilitate affordable housing production, which include at a minimum, assurance that permits as defined in s. 163.3164(7) and (8) for affordable housing projects are expedited to a greater degree than other projects; an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption; and a schedule for implementing the incentive strategies. Local housing incentive strategies may also include other regulatory reforms, such as those enumerated in s. 420.9076 or those recommended by the affordable housing advisory committee in its triennial evaluation of the implementation of affordable housing incentives, and adopted by the local governing body.

(25) "Recaptured funds" means funds that are recouped by a county or eligible municipality in accordance with the recapture provisions of its local housing assistance plan pursuant to s. 420.9075(5)(h) from eligible persons or eligible sponsors, which funds were not used for assistance to an eligible household for an eligible activity, when there is a default on the terms of a grant award or loan award.

(29) "Assisted housing" or "assisted housing development" means a rental housing development, including rental housing in a mixed-use development, that received or currently receives funding from any federal or state housing program.

(30) "Preservation" means actions taken to keep rents in

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existing assisted housing affordable for extremely-low-income, very-low-income, low-income, and moderate-income households while ensuring that the property stays in good physical and financial condition for an extended period.

Section 13. Subsections (6) and (7) of section 420.9072, Florida Statutes, are reenacted to read:

420.9072 State Housing Initiatives Partnership Program.—The State Housing Initiatives Partnership Program is created for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local government comprehensive plan specific to affordable housing, and to increase housing-related employment.

(6) The moneys that otherwise would be distributed pursuant to s. 420.9073 to a local government that does not meet the program's requirements for receipts of such distributions shall remain in the Local Government Housing Trust Fund to be administered by the corporation.

(7) A county or an eligible municipality must expend its portion of the local housing distribution only to implement a local housing assistance plan or as provided in this subsection.

(a) A county or an eligible municipality may not expend its portion of the local housing distribution to provide rent subsidies; however, this does not prohibit the use of funds for security and utility deposit assistance.

(b) A county or an eligible municipality may expend a portion of the local housing distribution to provide a one-time relocation grant to persons who meet the income requirements of

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the State Housing Initiatives Partnership Program and who are subject to eviction from rental property located in the county or eligible municipality due to the foreclosure of the rental property. In order to receive a grant under this paragraph, a person must provide the county or eligible municipality with proof of meeting the income requirements of a very-low-income household, a low-income household, or a moderate-income household; a notice of eviction; and proof that the rent has been paid for at least 3 months before the date of eviction, including the month that the notice of eviction was served. Relocation assistance under this paragraph is limited to a one-time grant of not more than \$5,000 and is not limited to persons who are subject to eviction from projects funded under the State Housing Initiatives Partnership Program. This paragraph expires July 1, 2010.

Section 14. Subsections (1), (2), (5), (6), and (7) of section 420.9073, Florida Statutes, are reenacted to read:

420.9073 Local housing distributions.—

(1) Distributions calculated in this section shall be disbursed on a quarterly or more frequent basis by the corporation pursuant to s. 420.9072, subject to availability of funds. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(9) shall be calculated by the corporation for each fiscal year as follows:

(a) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, shall receive the guaranteed amount for each fiscal year.

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(b) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population excluding the population of any county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount as determined in subsection (3), the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to such percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(9) reduced by the guaranteed amount paid to all counties.

(2) Distributions calculated in this section shall be disbursed on a quarterly or more frequent basis by the corporation pursuant to s. 420.9072, subject to availability of funds. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(10) shall be calculated by the corporation for each fiscal year as follows:

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(a) Each county shall receive the guaranteed amount for each fiscal year.

(b) Each county may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount, the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to this percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(10) as reduced by the guaranteed amount paid to all counties.

(5) Notwithstanding subsections (1)-(4), the corporation may withhold up to \$5 million of the total amount distributed each fiscal year from the Local Government Housing Trust Fund to provide additional funding to counties and eligible municipalities where a state of emergency has been declared by the Governor pursuant to chapter 252. Any portion of the withheld funds not distributed by the end of the fiscal year shall be distributed as provided in subsections (1) and (2).

(6) Notwithstanding subsections (1)-(4), the corporation may withhold up to \$5 million from the total amount distributed each fiscal year from the Local Government Housing Trust Fund to

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697 provide funding to counties and eligible municipalities to
698 purchase properties subject to a State Housing Initiative
699 Partnership Program lien and on which foreclosure proceedings
700 have been initiated by any mortgagee. Each county and eligible
701 municipality that receives funds under this subsection shall
702 repay such funds to the corporation not later than the
703 expenditure deadline for the fiscal year in which the funds were
704 awarded. Amounts not repaid shall be withheld from the
705 subsequent year's distribution. Any portion of such funds not
706 distributed under this subsection by the end of the fiscal year
707 shall be distributed as provided in subsections (1) and (2).

708 (7) A county receiving local housing distributions under
709 this section or an eligible municipality that receives local
710 housing distributions under an interlocal agreement shall expend
711 those funds in accordance with the provisions of ss. 420.907-
712 420.9079, rules of the corporation, and the county's local
713 housing assistance plan.

714 Section 15. Subsections (1), (3), (5), and (8), paragraphs
715 (a) and (h) of subsection (10), paragraph (b) of subsection
716 (13), and subsection (14) of section 420.9075, Florida Statutes,
717 are reenacted to read:

718 420.9075 Local housing assistance plans; partnerships.—

719 (1)(a) Each county or eligible municipality participating
720 in the State Housing Initiatives Partnership Program shall
721 develop and implement a local housing assistance plan created to
722 make affordable residential units available to persons of very
723 low income, low income, or moderate income and to persons who
724 have special housing needs, including, but not limited to,
725 homeless people, the elderly, migrant farmworkers, and persons

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726 with disabilities. Counties or eligible municipalities may
727 include strategies to assist persons and households having
728 annual incomes of not more than 140 percent of area median
729 income. The plans are intended to increase the availability of
730 affordable residential units by combining local resources and
731 cost-saving measures into a local housing partnership and using
732 private and public funds to reduce the cost of housing.

733 (b) Local housing assistance plans may allocate funds to:

734 1. Implement local housing assistance strategies for the
735 provision of affordable housing.

736 2. Supplement funds available to the corporation to provide
737 enhanced funding of state housing programs within the county or
738 the eligible municipality.

739 3. Provide the local matching share of federal affordable
740 housing grants or programs.

741 4. Fund emergency repairs, including, but not limited to,
742 repairs performed by existing service providers under
743 weatherization assistance programs under ss. 409.509-409.5093.

744 5. Further the housing element of the local government
745 comprehensive plan adopted pursuant to s. 163.3184, specific to
746 affordable housing.

747 (3)(a) Each local housing assistance plan shall include a
748 definition of essential service personnel for the county or
749 eligible municipality, including, but not limited to, teachers
750 and educators, other school district, community college, and
751 university employees, police and fire personnel, health care
752 personnel, skilled building trades personnel, and other job
753 categories.

754 (b) Each county and each eligible municipality is

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755 encouraged to develop a strategy within its local housing
756 assistance plan that emphasizes the recruitment and retention of
757 essential service personnel. The local government is encouraged
758 to involve public and private sector employers. Compliance with
759 the eligibility criteria established under this strategy shall
760 be verified by the county or eligible municipality.

761 (c) Each county and each eligible municipality is
762 encouraged to develop a strategy within its local housing
763 assistance plan that addresses the needs of persons who are
764 deprived of affordable housing due to the closure of a mobile
765 home park or the conversion of affordable rental units to
766 condominiums.

767 (d) Each county and each eligible municipality shall
768 describe initiatives in the local housing assistance plan to
769 encourage or require innovative design, green building
770 principles, storm-resistant construction, or other elements that
771 reduce long-term costs relating to maintenance, utilities, or
772 insurance.

773 (e) Each county and each eligible municipality is
774 encouraged to develop a strategy within its local housing
775 assistance plan which provides program funds for the
776 preservation of assisted housing.

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

780 (a) At least 65 percent of the funds made available in each
781 county and eligible municipality from the local housing
782 distribution must be reserved for home ownership for eligible
783 persons.

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(b) At least 75 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for construction, rehabilitation, or emergency repair of affordable, eligible housing.

(c) Not more than 20 percent of the funds made available in each county and eligible municipality from the local housing distribution may be used for manufactured housing.

(d) 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. 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 or as otherwise established by the United States Department of the Treasury.

(e) 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 except as otherwise provided in this section.

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

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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, 2013, and shall apply retroactively.

(f) Loans shall be provided for periods not exceeding 30 years, except for deferred payment loans or loans that extend beyond 30 years which continue to serve eligible persons.

(g) Loans or grants for eligible rental housing constructed, rehabilitated, or otherwise assisted from the local housing assistance trust fund must be subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan unless reserved for eligible persons for 15 years or the term of the assistance, whichever period is longer. Eligible sponsors that offer rental housing for sale before 15 years or that have remaining mortgages funded under this program must give a first right of refusal to eligible nonprofit organizations for purchase at the current market value for continued occupancy by eligible persons.

(h) Loans or grants for eligible owner-occupied housing constructed, rehabilitated, or otherwise assisted from proceeds provided from the local housing assistance trust fund shall be subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan.

(i) The total amount of monthly mortgage payments or the amount of monthly rent charged by the eligible sponsor or her or his designee must be made affordable.

(j) The maximum sales price or value per unit and the maximum award per unit for eligible housing benefiting from

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awards made pursuant to this section must be established in the local housing assistance plan.

(k) The benefit of assistance provided through the State Housing Initiatives Partnership Program must accrue to eligible persons occupying eligible housing. This provision shall not be construed to prohibit use of the local housing distribution funds for a mixed income rental development.

(l) Funds from the local housing distribution not used to meet the criteria established in paragraph (a) or paragraph (b) or not used for the administration of a local housing assistance plan must be used for housing production and finance activities, including, but not limited to, financing preconstruction activities or the purchase of existing units, providing rental housing, and providing home ownership training to prospective home buyers and owners of homes assisted through the local housing assistance plan.

1. Notwithstanding the provisions of paragraphs (a) and (b), program income as defined in s. 420.9071(24) may also be used to fund activities described in this paragraph.

2. When preconstruction due-diligence activities conducted as part of a preservation strategy show that preservation of the units is not feasible and will not result in the production of an eligible unit, such costs shall be deemed a program expense rather than an administrative expense if such program expenses do not exceed 3 percent of the annual local housing distribution.

3. 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

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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 (e) of this subsection.

4. Each county and each eligible municipality may award funds as a grant for construction, rehabilitation, or repair as part of disaster recovery or emergency repairs or to remedy accessibility or health and safety deficiencies. Any other grants must be approved as part of the local housing assistance plan.

(8) Pursuant to s. 420.531, the corporation shall provide training and technical assistance to local governments regarding the creation of partnerships, the design of local housing assistance strategies, the implementation of local housing incentive strategies, and the provision of support services.

(10) 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

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for implementation. The report must include, but is not limited to:

(a) The number of households served by income category, age, family size, and race, and data regarding any special needs populations such as farmworkers, homeless persons, persons with disabilities, and the elderly. Counties shall report this information separately for households served in the unincorporated area and each municipality within the county.

(h) Such other data or affordable housing accomplishments considered significant by the reporting county or eligible municipality or by the corporation.

(13)

(b) If, as a result of its review of the annual report, the corporation determines that a county or eligible municipality has failed to implement a local housing incentive strategy, or, if applicable, a local housing incentive plan, it shall send a notice of termination of the local government's share of the local housing distribution by certified mail to the affected county or eligible municipality.

1. The notice must specify a date of termination of the funding if the affected county or eligible municipality does not implement the plan or strategy and provide for a local response. A county or eligible municipality shall respond to the corporation within 30 days after receipt of the notice of termination.

2. The corporation shall consider the local response that extenuating circumstances precluded implementation and grant an extension to the timeframe for implementation. Such an extension shall be made in the form of an extension agreement that

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929 provides a timeframe for implementation. The chief elected
930 official of a county or eligible municipality or his or her
931 designee shall have the authority to enter into the agreement on
932 behalf of the local government.

933 3. If the county or the eligible municipality has not
934 implemented the incentive strategy or entered into an extension
935 agreement by the termination date specified in the notice, the
936 local housing distribution share terminates, and any uncommitted
937 local housing distribution funds held by the affected county or
938 eligible municipality in its local housing assistance trust fund
939 shall be transferred to the Local Government Housing Trust Fund
940 to the credit of the corporation to administer.

941 4.a. If the affected local government fails to meet the
942 timeframes specified in the agreement, the corporation shall
943 terminate funds. The corporation shall send a notice of
944 termination of the local government's share of the local housing
945 distribution by certified mail to the affected local government.
946 The notice shall specify the termination date, and any
947 uncommitted funds held by the affected local government shall be
948 transferred to the Local Government Housing Trust Fund to the
949 credit of the corporation to administer.

950 b. If the corporation terminates funds to a county, but an
951 eligible municipality receiving a local housing distribution
952 pursuant to an interlocal agreement maintains compliance with
953 program requirements, the corporation shall thereafter
954 distribute directly to the participating eligible municipality
955 its share calculated in the manner provided in s. 420.9072.

956 c. Any county or eligible municipality whose local
957 distribution share has been terminated may subsequently elect to

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958 receive directly its local distribution share by adopting the
959 ordinance, resolution, and local housing assistance plan in the
960 manner and according to the procedures provided in ss. 420.907-
961 420.9079.

962 (14) If the corporation determines that a county or
963 eligible municipality has expended program funds for an
964 ineligible activity, the corporation shall require such funds to
965 be repaid to the local housing assistance trust fund. Such
966 repayment may not be made with funds from the State Housing
967 Initiatives Partnership Program.

968 Section 16. Paragraph (h) of subsection (2), subsections
969 (5) and (6), and paragraph (a) of subsection (7) of section
970 420.9076, Florida Statutes, are reenacted to read:

971 420.9076 Adoption of affordable housing incentive
972 strategies; committees.—

973 (2) The governing board of a county or municipality shall
974 appoint the members of the affordable housing advisory committee
975 by resolution. Pursuant to the terms of any interlocal
976 agreement, a county and municipality may create and jointly
977 appoint an advisory committee to prepare a joint plan. The
978 ordinance adopted pursuant to s. 420.9072 which creates the
979 advisory committee or the resolution appointing the advisory
980 committee members must provide for 11 committee members and
981 their terms. The committee must include:

982 (h) One citizen who actively serves on the local planning
983 agency pursuant to s. 163.3174. If the local planning agency is
984 comprised of the governing board of the county or municipality,
985 the governing board may appoint a designee who is knowledgeable
986 in the local planning process.

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988 If a county or eligible municipality whether due to its small
989 size, the presence of a conflict of interest by prospective
990 appointees, or other reasonable factor, is unable to appoint a
991 citizen actively engaged in these activities in connection with
992 affordable housing, a citizen engaged in the activity without
993 regard to affordable housing may be appointed. Local governments
994 that receive the minimum allocation under the State Housing
995 Initiatives Partnership Program may elect to appoint an
996 affordable housing advisory committee with fewer than 11
997 representatives if they are unable to find representatives who
998 meet the criteria of paragraphs (a)-(k).

999 (5) The approval by the advisory committee of its local
1000 housing incentive strategies recommendations and its review of
1001 local government implementation of previously recommended
1002 strategies must be made by affirmative vote of a majority of the
1003 membership of the advisory committee taken at a public hearing.
1004 Notice of the time, date, and place of the public hearing of the
1005 advisory committee to adopt its evaluation and final local
1006 housing incentive strategies recommendations must be published
1007 in a newspaper of general paid circulation in the county. The
1008 notice must contain a short and concise summary of the
1009 evaluation and local housing incentives strategies
1010 recommendations to be considered by the advisory committee. The
1011 notice must state the public place where a copy of the
1012 evaluation and tentative advisory committee recommendations can
1013 be obtained by interested persons. The final report, evaluation,
1014 and recommendations shall be submitted to the corporation.

1015 (6) Within 90 days after the date of receipt of the

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1016 evaluation and local housing incentive strategies
1017 recommendations from the advisory committee, the governing body
1018 of the appointing local government shall adopt an amendment to
1019 its local housing assistance plan to incorporate the local
1020 housing incentive strategies it will implement within its
1021 jurisdiction. The amendment must include, at a minimum, the
1022 local housing incentive strategies required under s.
1023 420.9071(16). The local government must consider the strategies
1024 specified in paragraphs (4)(a)-(k) as recommended by the
1025 advisory committee.

1026 (7) The governing board of the county or the eligible
1027 municipality shall notify the corporation by certified mail of
1028 its adoption of an amendment of its local housing assistance
1029 plan to incorporate local housing incentive strategies. The
1030 notice must include a copy of the approved amended plan.

1031 (a) If the corporation fails to receive timely the approved
1032 amended local housing assistance plan to incorporate local
1033 housing incentive strategies, a notice of termination of its
1034 share of the local housing distribution shall be sent by
1035 certified mail by the corporation to the affected county or
1036 eligible municipality. The notice of termination must specify a
1037 date of termination of the funding if the affected county or
1038 eligible municipality has not adopted an amended local housing
1039 assistance plan to incorporate local housing incentive
1040 strategies. If the county or the eligible municipality has not
1041 adopted an amended local housing assistance plan to incorporate
1042 local housing incentive strategies by the termination date
1043 specified in the notice of termination, the local distribution
1044 share terminates; and any uncommitted local distribution funds

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held by the affected county or eligible municipality in its local housing assistance trust fund shall be transferred to the Local Government Housing Trust Fund to the credit of the corporation to administer the local government housing program.

Section 17. Section 420.9078, Florida Statutes, is repealed.

Section 18. Section 420.9079, Florida Statutes, is reenacted to read:

420.9079 Local Government Housing Trust Fund.—

(1) There is created in the State Treasury the Local Government Housing Trust Fund, which shall be administered by the corporation on behalf of the department according to the provisions of ss. 420.907-420.9076 and this section. There shall be deposited into the fund a portion of the documentary stamp tax revenues as provided in s. 201.15, moneys received from any other source for the purposes of ss. 420.907-420.9076 and this section, and all proceeds derived from the investment of such moneys. Moneys in the fund that are not currently needed for the purposes of the programs administered pursuant to ss. 420.907-420.9076 and this section shall be deposited to the credit of the fund and may be invested as provided by law. The interest received on any such investment shall be credited to the fund.

(2) The corporation shall administer the fund exclusively for the purpose of implementing the programs described in ss. 420.907-420.9076 and this section. With the exception of monitoring the activities of counties and eligible municipalities to determine local compliance with program requirements, the corporation shall not receive appropriations from the fund for administrative or personnel costs. For the

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purpose of implementing the compliance monitoring provisions of s. 420.9075(9), the corporation may request a maximum of one-quarter of 1 percent of the annual appropriation per state fiscal year. When such funding is appropriated, the corporation shall deduct the amount appropriated prior to calculating the local housing distribution pursuant to ss. 420.9072 and 420.9073.

Section 19. Subsection (12) of section 1001.43, Florida Statutes, is reenacted to read:

1001.43 Supplemental powers and duties of district school board.—The district school board may exercise the following supplemental powers and duties as authorized by this code or State Board of Education rule.

(12) AFFORDABLE HOUSING.—A district school board may use portions of school sites purchased within the guidelines of the State Requirements for Educational Facilities, land deemed not usable for educational purposes because of location or other factors, or land declared as surplus by the board to provide sites for affordable housing for teachers and other district personnel and, in areas of critical state concern, for other essential services personnel as defined by local affordable housing eligibility requirements, independently or in conjunction with other agencies as described in subsection (5).

Section 20. This act shall take effect upon becoming a law, and those portions of this act which were amended, created, or repealed by chapter 2009-96, Laws of Florida, shall operate retroactively to June 1, 2009. If such retroactive application is held by a court of last resort to be unconstitutional, this act shall apply prospectively from the date that this act

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becomes a law.