

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 196

INTRODUCER: Senator Rodriguez

SUBJECT: Florida Housing Finance Corporation

DATE: November 1, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Hackett | Ryon | CA | Favorable |
| 2. | | | ATD | |
| 3. | | | AP | |

I. Summary:

SB 196 designates the Florida Housing Finance Corporation (Florida Housing) as the state fiscal agency authorized to make constitutional determinations of fiscal sufficiency in connection with their issuance of bonds. Currently, such determinations must be made by the State Board of Administration (SBA). To complement this change, the bill also removes a reference to SBA rules in the statute governing Florida Housing’s Guarantee Program.

The bill takes effect July 1, 2022.

II. Present Situation:

The Florida Housing Finance Corporation (Florida Housing) is a public corporation created by the Legislature to assist in providing a range of affordable housing opportunities for Florida residents. Florida Housing administers federal and state resources to make loans, guarantees of loans, and to issue bonds to finance the development and preservation of affordable homeowner and rental housing and assist homebuyers with financing and down payment assistance.¹

Florida Housing Bond Issuance

Florida Housing facilitates the issuance of bonds by serving in a conduit capacity. Each bond indenture is for a single purpose entity and the bonds are secured solely by the revenues, assets

¹ See *Overview of Florida Housing Finance Corporation*, Florida Housing Finance Corporation, available at <https://www.floridahousing.org/docs/default-source/aboutflorida/august2017/august2017/tab8.pdf>, (last visited October 20, 2021).

and guarantees associated with each bond.² The bonds are not an obligation of the state as they are not secured by the full faith and credit of the state.³

Section 420.509, F.S., designates the State Board of Administration (SBA) 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 Florida Housing bonds. The required fiscal determination is 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. This section also authorizes Florida Housing to bear interest on the bonds that are issued. However, the rate or rates may not exceed the interest rate limitation set forth in s. 215.84(3), F.S.,⁴ unless authorized by the SBA.⁵

Before a bond is issued, Florida Housing's Board of Directors must approve the requirements for a bond financed development. Upon the Board's approval, a fiscal sufficiency report is prepared by a third party and submitted to the SBA for approval. The Governor and the Florida Cabinet, functioning as the SBA, must place the report on the next scheduled Cabinet meeting's agenda, and only upon approval by the SBA can the bond transaction proceed to closing. This mechanism can produce significant delays in bond issuance.

Florida Affordable Housing Guarantee Program

The Florida Affordable Housing Guarantee Program was created in 1992 to work in concert with federal, state and local government financing sources to effectively lower the overall cost of borrowing capital for the construction and rehabilitation of affordable multifamily rental housing.⁶ These cost savings were achieved by the Guarantee Program guaranteeing the payment of mortgages that secure multifamily mortgage revenue bonds, thus raising the loan's rating and reducing the overall cost of borrowing. In 2009, Florida Housing's board of directors officially suspended the Guarantee Program due to continually low interest rates, which prompted developers to refinance properties outside of the Guarantee Program. Currently, just one multifamily rental property holds an outstanding guarantee from this program.⁷

III. Effect of Proposed Changes:

Section 1 amends s. 420.509, F.S., to designate Florida Housing as the state fiscal agency to make the determinations required by s. 16, Article VII of the State Constitution, in connection with the issuance of Florida Housing bonds and removes the authority of the SBA to authorize an interest rate in excess of the maximum.

² Affordable Housing Work Group, Overview of the State's Implementation of Rental Programs (August 2017) available at [tab7.pdf \(floridahousing.org\)](#) (last visited October 20, 2021). Chapter 2017-71, Laws of Fla., established the Workgroup to develop recommendations to address the state's affordable housing needs.

³ Sections 420.509, and 420.51, F.S., and Section 16, Article VII, Florida Constitution.

⁴ This section prescribes a statewide maximum bond interest rate, which is flexible with the bond market. The rate is computed by adding 300 basis points to The Bond Buyer "20 Bond Index" published immediately preceding the first day of the calendar month in which the bonds are sold.

⁵ Section 420.509(4), F.S.

⁶ s. 420.5092, F.S.

⁷ Florida Housing Finance Corporation, 2020 Annual Report, p. 19. Available at <https://www.floridahousing.org/data-docs-reports/annual-reports> (last visited November 1, 2021).

The section also allows, where applicable, Florida Housing to use the interest rate limitation on bond issuance set forth in s. 159.825, F.S. This change allows Florida Housing to bear higher interest on taxable bonds without seeking SBA approval.

Section 2 amends s. 420.5092, F.S., to remove the requirement for the Florida Housing Guarantee Program, now suspended, that the program's fund's financial rating remain consistent with rules adopted by the SBA. This is a technical change to conform to the bill's removal of the SBA from oversight responsibility.

Section 3 provides that the bill shall take effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to Florida Housing, the multi-layer review process can cause unpredictable delays and subject transactions to market volatility. This bill would ameliorate that concern and positively impact Florida Housing's ability to reliably issue bonds.⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 420.509 and 420.5092 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁸ Email from Stephanie Sutton, External Affairs Director, Florida Housing, October 11, 2021 (on file with Senate Committee on Community Affairs).