

**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.)

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

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BILL: SB 788

INTRODUCER: Senator Hooper

SUBJECT: Florida Hometown Hero Housing Program

DATE: January 10, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	<b>Favorable</b>
2.			ATD	
3.			AP	

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**I. Summary:**

SB 788 creates the “Florida Hometown Hero Housing Program,” a new downpayment assistance program within the Florida Housing Finance Corporation (FHFC). Under the program, eligible homebuyers will have access to loans which reduce down payments and closing costs. Loans must be repaid when the property is sold, refinanced, rented, or transferred, unless otherwise approved by FHFC.

Eligible homebuyers are those seeking first mortgages, of limited family income, and employed as any of the following:

- A sworn law enforcement officer;
- A certified correctional officer or correctional probation officer;
- A 911 public safety telecommunicator;
- A firefighter;
- An educator;
- A certified paramedic or emergency medical technician;
- A licensed health care practitioner;
- A physician assistant or medical assistant; or
- A home health aide.

This program will supplement and function alongside existing down payment assistance programs currently administered by FHFC.

The bill takes effect upon becoming a law.

## II. Present Situation:

### Affordable Housing

One major goal at all levels of government is to ensure that citizens have access to affordable housing. Housing is considered affordable when it costs less than 30 percent of a family's gross income. A family paying more than 30 percent of its income for housing is considered "cost burdened," while those paying more than 50 percent are considered "extremely cost burdened." Severely cost burdened households are more likely to sacrifice other necessities like healthy food and healthcare to pay for housing, and to experience unstable housing situations like evictions.

Affordable housing is defined in terms of household income. Resident eligibility for Florida's state and federally funded housing programs is typically governed by area median income (AMI) levels, published annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area. The following are standard household income level definitions and their relationship to the 2021 Florida state median of \$70,000 for a family of four (as family size increases or decreases, the income range also increases or decreases):<sup>1</sup>

- Extremely low income – earning up to 30 percent AMI (at or below \$21,000);<sup>2</sup>
- Very low income – earning from 30.01 to 50 percent AMI (\$21,001 to \$35,000);<sup>3</sup>
- Low income – earning from 50.01 to 80 percent AMI (\$35,001 to \$56,000);<sup>4</sup> and
- Moderate income – earning from 80.01 to 120 percent of AMI (\$56,001 to \$84,000).<sup>5</sup>

Housing costs reflect what people are willing to pay to live in an area, which in some instances, due to low supply and high demand, makes it difficult for the workforce, elders, and people with disabilities to find affordable homes and apartments. The government helps make housing affordable through decreased monthly rent or mortgage payments, so that income eligible families are able to pay less for the housing than it would otherwise cost at "market rate." Lower monthly payments or down payment assistance is a result of affordable housing financing.

### Florida Housing Finance Corporation

The 1997 Legislature created the Florida Housing Finance Corporation (FHFC) as a public-private entity to assist in providing a range of affordable housing opportunities for Floridians.<sup>6</sup> The FHFC is a corporation held by the state and housed within the Department of Economic Opportunity (DEO). The FHFC is a separate budget entity and its operations, including those relating to personnel, purchasing, transactions involving real or personal property, and budgetary matters, are not subject to control, supervision, or direction by DEO.<sup>7</sup>

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<sup>1</sup> U.S. Department of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas – Click Here for FY 2021 IL Documentation*, available at <https://www.huduser.gov/portal/datasets/il.html#2021> (last visited December 3, 2021).

<sup>2</sup> Section 420.0004(9), F.S.

<sup>3</sup> Section 420.0004(17), F.S.

<sup>4</sup> Section 420.0004(11), F.S.

<sup>5</sup> Section 420.0004(12), F.S.

<sup>6</sup> Chapter 97-167, Laws of Fla. Previously, from 1980 through 1997, the former Florida Housing Finance Agency, placed within the former Department of Community Affairs, performed similar duties.

<sup>7</sup> Section 420.504(1), F.S.

The goal of the FHFC is to increase the supply of safe, affordable housing for individuals and families with very low to moderate incomes by stimulating investment of private capital and encouraging public and private sector housing partnerships. As a financial institution, the FHFC administers federal and state resources to finance the development and preservation of affordable homeowner and rental housing and assist homebuyers with financing and down payment assistance.

### **Funding for Affordable Housing**

FHFC draws and administers funds from federal programs through federal tax credits and the Department of Housing and Urban Development,<sup>8</sup> from the state through the State Housing Trust Fund and Local Government Housing Trust Fund,<sup>9</sup> both funded by documentary stamp taxes, as well as ad hoc individual legislative appropriations, and through program income, which consists primarily of funds from successful loan repayment that is recycled into the program it came from.

The State Housing Trust Fund, administered by the FHFC,<sup>10</sup> is “to be used for new construction and substantial rehabilitation of housing, to improve the state’s ability to serve first-time homebuyers, and to increase the affordability and availability of the housing stock in the State of Florida.”<sup>11</sup> The 1992 Sadowski Act increased documentary stamp tax rates and provided for a certain proportion of documentary stamp tax revenues to be distributed to the State Housing Trust Fund.

The Local Government Housing Trust Fund, administered by the FHFC,<sup>12</sup> is used to fund the State Housing Initiatives Partnership Program, which was created “for the purpose of providing funds to local governments as an incentive for the creation of partnerships to produce and preserve affordable housing.”<sup>13</sup> A certain proportion of documentary stamp tax revenues are distributed to the Local Government Housing Trust Fund.

### ***Documentary Stamp Tax***

The documentary stamp tax imposes an excise tax on deeds or other documents that convey an interest in Florida real property. The tax comprises two taxes imposed on different bases at different tax rates. The first tax rate is 70 cents on each \$100 of consideration for deeds, instruments, or writings whereby lands, tenements, or other real property or interests that are granted, assigned, transferred, conveyed or vested in a purchaser.<sup>14</sup> The second tax rate is 35 cents per each \$100 of consideration for certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements.<sup>15</sup>

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<sup>8</sup> See ss. 420.507(33) and 159.608, F.S.

<sup>9</sup> Section 201.15, F.S.

<sup>10</sup> Chapter 92-317, ss. 1-35, Laws of Fla.; Section 420.0005, F.S.

<sup>11</sup> Chapter 88-376, s. 2, Laws of Fla.; s. 420.003(5), F.S. (1988).

<sup>12</sup> Section 420.9079, F.S.

<sup>13</sup> Chapter 92-317, s. 32, Laws of Fla.; s. 420.9072, F.S. (1992).

<sup>14</sup> Section 201.02(1), F.S.

<sup>15</sup> Sections 201.07 and 201.08, F.S.

## **FHFC Homeownership Programs**

FHFC's primary function is administering a variety of programs to assist in the development and rehabilitation of affordable housing stock, provide low interest loans for first-time homebuyers, provide down payment assistance and reduce closing costs, and assist in the housing side of disaster recovery. The following programs focus primarily on aiding first-time homebuyers into stable homeownership by reducing mortgage payments and onerous one-time costs associated with purchasing a home.

### ***Homebuyer Loan Programs***

FHFC's Homebuyer Loan Programs offer 30-year fixed-rate first mortgage loans originated by a network of participating lenders throughout Florida. The programs are offered to eligible first time homebuyers<sup>16</sup> who meet income, purchase price and other program criteria; can qualify for a loan; and successfully complete a homebuyer education course.<sup>17</sup> Borrowers who qualify for a first mortgage program may access one of FHFC's down payment assistance (DPA) programs.<sup>18</sup>

### ***Down Payment Assistance***

FHFC administers multiple DPA programs available to first time homebuyers utilizing a FHFC first mortgage loan product. DPA is typically offered as a low- or zero-rate loan, in the form of a second mortgage,<sup>19</sup> to secure funding for down payments, closing costs, mortgage insurance premiums, or principal reduction to the first mortgage.<sup>20</sup> FHFC DPA programs are funded from a mix of sources including documentary stamp tax revenue, special legislative appropriation, and FHFC program income, which is primarily returned loan money. FHFC's individual DPA programs are further described in the paragraphs below.

### **Florida Homeownership Assistance Program - Florida Assist**

The Florida Homeownership Assistance Program – Florida Assist (HAP) is a statutorily prescribed program, providing up to \$7,500 in DPA for first-time homebuyers.<sup>21</sup> These loans are zero percent interest, non-amortizing second mortgage loans, which means the homebuyer does not make monthly payments on them. Instead, the loan is repaid when the homebuyer sells the home, transfers ownership, satisfies or refinances the first mortgage, or ceases to occupy the home. These loans are for applicants whose incomes are at or below 120 percent of AMI.<sup>22</sup>

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<sup>16</sup> The IRS definition of "first-time homebuyer," generally accepted by Florida agencies and corporations, is a person who has not owned and occupied their primary residence for the past three years. See *Homebuyer Overview*, FHFC, available at <https://www.floridahousing.org/programs/homebuyer-overview-page> (last visited December 15, 2021).

<sup>17</sup> FHFC funds homebuyer loans through various transaction types, including (a) the specified pool market, (2) tax-exempt bonds, and (3) forward delivery/To Be Announced (TBA) market.

<sup>18</sup> See Florida Housing Finance Corporation, *2020 Annual Report*, p. 13, available at <https://www.floridahousing.org/data-docs-reports/annual-reports> (last visited November 30, 2021).

<sup>19</sup> A second mortgage is a subordinate mortgage made while the original is still in effect.

<sup>20</sup> Only one FHFC DPA program can be used by a borrower.

<sup>21</sup> Section 420.5088, F.S.

<sup>22</sup> See Florida Housing Finance Corporation, *Down Payment Assistance Programs*, available at <https://www.floridahousing.org/programs/homebuyer-overview-page/down-payment-assistance-programs> (last visited November 30, 2021).

Homeownership Loan Program (HLP) Second Mortgage

The HLP Second Mortgage provides up to \$10,000 in DPA for first-time homebuyers. These loans are 3 percent interest, fully amortizing second mortgage loans. The loan is amortized over 15 years, making monthly payments more affordable to borrowers. The loan becomes due in full when the homebuyer sells the home, transfers ownership, satisfies or refinances the first mortgage, or ceases to occupy the home. These loans are available to applicants with income at or below 140 percent of AMI.

Housing Finance Agency (HFA) Preferred Plus Program

The HFA Preferred Plus Program allows first-time homebuyers to receive 3 percent, 4 percent, or 5 percent of the total first mortgage loan amount as DPA in the form of a forgivable second mortgage. The loan is forgiven at 20 percent a year over its 5-year term and is available to applicants whose incomes are at or below 140 percent of AMI.

Salute Our Soldiers Program

The Salute Our Soldiers Program is a targeted program operated by FHFC which offers first mortgages and DPA to active duty military and veterans. The DPA program offers forgivable second mortgages of up to 5 percent of the total loan amount.<sup>23</sup> To fund the DPA program, FHFC committed \$8,000,000 of internal program funds recovered from previous repaid loans.<sup>24</sup>

Hurricane Michael Recovery Loan Program

In 2020, the Legislature appropriated \$10,000,000 of nonrecurring funds to FHFC to establish a DPA program for homebuyers purchasing residences in counties impacted by Hurricane Michael.<sup>25</sup> From this instruction, FHFC organized the Hurricane Michael Recovery Loan Program.<sup>26</sup> Borrowers utilizing certain first mortgage programs qualified for the second mortgage program. This second mortgage was a loan of up to \$15,000 at 0 percent interest rate, five-year term, and forgiven at the rate of 20 percent per year. These loans were available to applicants whose incomes were at or below 140 percent of AMI and with a purchase price limit of \$360,067, as decided by the FHFC.<sup>27</sup> Additionally, borrowers were not required to qualify as a first-time homebuyer to be eligible to participate in the program.

**III. Effect of Proposed Changes:**

The bill creates s. 420.5096, F.S., to establish the “Florida Hometown Hero Housing Program,” a new homeownership assistance program within the FHFC. Under the program, eligible purchasers will have access to 0-percent interest rate loans to reduce the amount of down payment and closing costs to a maximum of 5 percent or \$25,000, whichever is less. Loans must

<sup>23</sup> Florida Housing Finance Corporation, Lender Guide, March 2, 2020, available at <https://www.ehousingplus.com/wp-content/uploads/FHFC-SOS-06-22-20.pdf> (last visited November 30, 2020).

<sup>24</sup> Email from Stephanie Sutton, External Affairs Director, FHFC, August 3, 2021, on file with Senate Committee on Community Affairs.

<sup>25</sup> Chapter 2020-111, p. 320-321, item 2202A, Laws of Fla.

<sup>26</sup> See Florida Housing Finance Corporation, 2020 Annual Report, p. 24, available at [https://issuu.com/fhfc/docs/2020\\_annual\\_report](https://issuu.com/fhfc/docs/2020_annual_report) (last visited November 30, 2021).

<sup>27</sup> *Disaster Relief Resources and Information*, Florida Housing Finance Corporation, available at <https://www.floridahousing.org/programs/special-programs/ship---state-housing-initiatives-partnership-program/disaster-relief> (last visited December 3, 2021).

be repaid when the property is sold, refinanced, rented, or transferred unless otherwise approved by FHFC.

Such loans are available to those seeking first mortgages whose family incomes do not exceed 150 percent of the state or local median income, whichever is greater, and are employed as any of the following:

- A sworn law enforcement officer;
- A certified correctional officer or correctional probation officer;
- A 911 public safety telecommunicator;
- A firefighter;
- An educator;
- A certified paramedic or emergency medical technician;
- A licensed health care practitioner;
- A physician assistant or medical assistant; or
- A home health aide.

Other-personnel-services and temporary employees are not eligible. The program applies to qualifying home purchases on or after July 1, 2022.

The bill takes effect upon becoming a law.

#### **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:

This bill does not affect state or local revenue.

**B. Private Sector Impact:**

When the program is funded, eligible homebuyers with an approved occupation will benefit from an additional DPA option, making homeownership more affordable.

**C. Government Sector Impact:**

The bill itself does not include an appropriation. Creating a new DPA program will increase FHFC responsibilities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 420.5096 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.