

Alachua County
Board of County Commissioners

ORDINANCE 81-7

AN EMERGENCY ORDINANCE RELATING TO THE CREATION OF A HOUSING FINANCE AUTHORITY; CREATING THE ALACHUA COUNTY HOUSING FINANCE AUTHORITY; PROVIDING TERMS AND CONDITIONS FOR MEMBERSHIP ON THE AUTHORITY; ESTABLISHING THE POWERS AND DUTIES OF THE AUTHORITY; PROVIDING FOR THE ISSUANCE OF BONDS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Part IV of Chapter 159, Florida Statutes, the Florida Housing Finance Authority Law (the "Act"), authorizes the creation of a Housing Finance Authority in each county of Florida as a public body corporate and politic for the purpose of financing the acquisition, construction, reconstruction, or rehabilitation of qualifying housing developments within the geographical limits of the county; and,

WHEREAS, after careful study, including testimony from persons active in the Alachua County housing industry, the Board of County Commissioners of Alachua County, Florida (the "Board"), has determined:

1. Within Alachua County, there is a shortage of housing at prices or rentals which many persons and families can afford, and a shortage of capital for investment in such housing;

2. This shortage constitutes a threat to the health, safety, and welfare of the residents of Alachua County;

3. This shortage cannot be relieved except through the encouragement of investment by private enterprise and the stimulation of construction and rehabilitation of housing through the use of public financing;

4. The financing, acquisition, construction, reconstruction, and rehabilitation of housing and of the real and personal property and other facilities necessary, incidental, and appurtenant thereto are exclusively public uses and purposes for which public money may be spent, advanced, loaned, or granted and are governmental functions of public concern;

5. The Congress of the United States has, by the enactment of amendments to the Internal Revenue Code of 1954, found and determined that housing may be financed by means of obligations issued by any state or local governmental unit, the interest on which obligations is exempt from federal income taxation, and has thereby provided a method to aid state and local governmental units to provide assistance to meet the need for housing;

6. The provisions of this ordinance are found and determined to be necessary and in the public interest as a matter of legislative determination; and,

WHEREAS, the Board finds that there exists a need for the creation of a housing finance authority in Alachua County; and,

WHEREAS, the Ninety-sixth Congress of the United States has enacted the Mortgage Subsidy Bond Tax Act of 1980 which limits the aggregate principal amount of obligations which may be issued in Florida to fulfill the purposes of the Act; and,

WHEREAS, the Governor of the State of Florida is authorized by the Mortgage Subsidy Bond Tax Act of 1980 to reallocate the portion of such obligations which may be issued by local governments within the state; and,

WHEREAS, the Governor has issued an Executive Order which contains a formula to reallocate the portion of such obligations which may be issued by local governments within the state among those local governments which have taken official action by a certain date; and,

WHEREAS, official action is defined in the Executive Order to mean creation of a county housing finance authority authorized to issue such obligations by September 1, 1981, and adoption by such county housing finance authority of a resolution authorizing the issuance of such obligations by September 18, 1981, and delivery of certified copies of the county ordinance and

authorizing resolution to the Executive Director of the Florida Housing Finance Agency no later than September 25, 1981; and,

WHEREAS, the Board has found and determined that the foregoing constitutes an emergency within the meaning of Section 125.66, Florida Statutes, and hereby declares that an emergency is present and that the immediate enactment of this ordinance is necessary;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

Section 1. Creation of the Alachua County Housing Finance Authority.

The Alachua County Housing Finance Authority (the "Authority") is hereby established and created as a public body corporate and politic to carry out the purposes of the Act.

Section 2. Members.

The Authority shall be composed of five (5) members appointed by resolution of the Board, one of whom shall be designated Chairman. Not less than three (3) of the members shall be knowledgeable in one on the following fields: labor, finance, or commerce. The terms of the members shall be four (4) years each, except that the terms of the initial members shall be as follows: two (2) members shall serve a term of one (1) year; one (1) member shall serve a term of two (2) years; one (1) member shall serve a

term of three (3) years; and one (1) member shall serve a term of four (4) years. A member of the Authority shall hold office until his successor has been appointed and has qualified. Each vacancy shall be filled for the remainder of the unexpired term. A certificate of the appointment or reappointment of any member of the Authority shall be filed with the Clerk of the Circuit Court of Alachua County and the certificate shall be conclusive evidence of the due and proper appointment of the member. A member shall receive no compensation for his services, but shall be entitled to necessary expenses including travel expenses incurred in the discharge of his duties.

Section 3. Conflicts of Interest.

No member or employee of the Authority shall acquire any interest, direct or indirect, in any qualifying housing development or in any property included or planned to be included in such a development, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any qualifying housing development. If any member or employee of the Authority owns or controls an interest direct or indirect in any property included or planned to be included in any qualifying housing project, he shall immediately disclose the same in writing to the Authority. Such disclosure shall be entered upon the minutes of the

Authority. Failure to disclose such interest shall constitute misconduct in office.

Section 4. Removal of Members.

A member of the Authority may be removed without cause by three-fifths (3/5) vote of the Board, or for neglect of duty or misconduct in office by majority vote of the Board. A member may be removed only after he has been given a copy of the charges at least ten (10) days prior to the hearing thereon and has had an opportunity to be heard in person or by counsel. If a member is removed, a record of the proceedings, together with the charges and findings thereon, shall be filed in the Office of the Clerk of the Circuit Court of Alachua County.

Section 5. Powers of the Authority.

The Authority shall constitute a public body corporate and politic, exercising the public and essential governmental functions set forth in the Act and this ordinance, and shall exercise its power to borrow only for the purpose as provided herein:

a. To sue and be sued, to have a seal and to alter the same at pleasure, to have perpetual succession, to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Authority, and to make and from time-to-time amend and repeal bylaws, rules, and regulations not

inconsistent with the Act and this ordinance to carry into effect the powers and purposes of the Authority.

b. To purchase or make commitments to purchase or to make loans for such purpose, and to take assignments of, from lending institutions acting as a principal or as an agent of the Authority, mortgage loans and promissory notes accompanying such mortgage loans, including federally insured mortgage loans or participations with lending institutions in such promissory notes and mortgage loans for the construction, purchase, reconstruction, or rehabilitation of a qualifying housing development or portion thereof, provided that the proceeds of sale or equivalent monies shall be reinvested in mortgage loans.

c. To make loans to lending institutions under terms and conditions requiring the proceeds thereof to be used by such lending institutions for the making of new mortgages for any qualifying housing development, or portion thereof, located wholly or partially within Alachua County. Prior to making a loan to a lending institution which makes such loans or provides such financing, the lending institution must agree to use the proceeds of such loan within a reasonable period of time to make loans or to otherwise provide financing for the acquisition, construction, reconstruction, or rehabilitation of a housing development or portion thereof, and the Authority must find that such loan will

assist in alleviating the shortage of housing and of capital for investment in housing within Alachua County.

d. To invest, at the direction of the lending institution, any funds held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which lending institutions may legally invest funds subject to their control.

e. The Authority shall have such other powers and duties as are set forth in the Act.

Section 6. Exercise of Powers.

The powers of the Authority shall be vested in the members of the Authority in office from time-to-time. Three (3) members shall constitute a quorum, and action may be taken by the Authority upon vote of the majority of the members present. The Authority may employ its own legal counsel and such other agents and employees, permanent or temporary, as it may require and shall determine the qualifications, duties, and compensation of such persons. The Authority may delegate to an agent or employee such powers and duties as it may deem proper.

Section 7. Limitation of Powers.

The powers set forth in Section 5 of this ordinance shall be limited as follows:

a. The Authority shall not finance the acquisition, construction, reconstruction, or rehabilitation of any qualifying housing development for its own profit or as a source of revenue to the state or any local governmental unit.

b. The Authority shall not have the power to acquire any real property by exercise of the power of eminent domain.

c. Each qualifying housing development shall be subject to the planning, zoning, health, and building laws, ordinances, and regulations applicable to the place in which such qualifying housing development is situate.

Section 8. Bonds.

The Authority may issue its revenue bonds from time-to-time in the discretion of the Authority for the purposes set forth in the Act and this ordinance. The Authority may also issue refunding bonds for the purpose of paying, retiring, or refunding bonds previously issued by it. The Authority may issue such types of bonds as it may determine, provided that the principal and interest on such bonds are payable solely and only from:

a. The repayment of any loans made by the Authority pursuant to the provisions of Section 159.608, Florida Statutes, and Section 5 of this ordinance, or purchased by the Housing

Finance Authority pursuant to Section 159.608, Florida Statutes, and Section 5 of this ordinance; or

b. The sale of any housing loans or commitments to purchase housing loans which are purchased pursuant to Section 159.608, Florida Statutes, and Section 5 of this ordinance.

Any bonds issued pursuant to the provisions of the Act and this ordinance shall be secured by a mortgage or other security device. In no event shall any such bonds be payable from the general revenues of the Authority. Neither the members of the Authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds issued pursuant to the provisions hereof, and the bonds shall so state on their face, shall not be a debt of the county or of the state, or of any political subdivision thereof; and neither the county nor the state or political subdivision thereof shall be liable thereon; nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of the Authority.

Section 9. Form of Bonds.

Bonds of the Authority issued pursuant to the Act and this ordinance shall be authorized by a resolution of the Authority and validated in the manner prescribed by Chapter 75, Florida Statutes. Such bonds may be issued in one or more series and

shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration provisions, have such rank or priority, be executed by such members of the Authority and in such manner, be payable in such means of payment at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide. However, the provisions of Section 215.685, Florida Statutes, shall apply.

Section 10. Sale of Bonds.

The bonds issued by the Authority shall be sold at public sale substantially in the manner provided by Section 215.68(5)(b) and (c), Florida Statutes, unless otherwise approved by the State Board of Administration, but such requirements shall be deemed waived if the State Board of Administration has not responded in writing within thirty (30) days from the date of application, or if the bonds are rated by at least one nationally recognized rating service in any one of the three highest classifications approved by the Comptroller of the Currency for the investment of funds of national banks, an appropriate certification and opinion of counsel pursuant to the applicable arbitrage regulations under Section 103(c) of the Internal Revenue Code are delivered simultaneously with the delivery of the bonds, and the official statement issued in connection with the sale of the bonds

has been filed with the State Board of Administration prior to the closing.

In the event an offer of an issue of bonds at public sale produces no bid, or in the event all bids received are rejected, the Authority is authorized to negotiate for the sale of such bonds under such rates and terms as are acceptable; however, no such bonds shall be so sold or delivered on terms less favorable than the terms contained in any of the bids rejected at the public sale thereof, or the terms contained in the notice of public sale if no bids were received at such public sale.

In case any member of the Authority whose signature appears on the bonds or coupons shall cease to be a member before delivery of the bonds or coupons, such bonds shall, nevertheless, be valid and sufficient for all purposes, the same as if such member had remained in office until such delivery. Any provision of law to the contrary notwithstanding, any bonds issued pursuant to the Act and this ordinance shall be fully negotiable.

In any suit, action, or proceeding involving the validity or enforcement of any bond of the Authority or the security therefor issued pursuant hereto, any such bond reciting in substance that it has been issued by the Authority to assist in providing financing of a qualifying housing development to alleviate the shortage of housing in Alachua County shall be conclusively

deemed to have been issued for a qualifying housing development of such character.

Section 11. Availability of Financing.

As long as the shortage of housing exists, the Authority shall not unreasonably refuse to participate in the financing of any qualifying housing development upon request.

Section 12. Liabilities of the Authority.

In no event shall the liabilities, whether ex contractu or ex delicto, of the Authority arising from the financing of any qualifying housing development be payable from any funds other than the revenues or receipts of such qualifying housing development.

Section 13. Definitions.

The terms used in this ordinance shall have the meanings set forth in the Act unless a different meaning clearly appears from the context.

Section 14. Effective Date.

This ordinance shall take effect when a certified copy hereof has been accepted by the postal authorities of the United States for special delivery by registered mail to the office of the Secretary of State.

DULY ADOPTED in regular session, this 25th day of
August, A.D., 1981.

BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA

By: Edmund B. Durrance
Jack Durrance, Chairman

ATTEST:

A. Curtis Powers
A. Curtis Powers, Clerk

(SEAL)