

Alachua County
Board of County Commissioners

ORDINANCE 99-25

AN ORDINANCE AMENDING CHAPTER 32 OF THE ALACHUA COUNTY CODE RELATING TO THE CREATION OF A HOUSING FINANCE AUTHORITY; CONFIRMING THE CREATION OF THE ALACHUA COUNTY HOUSING FINANCE AUTHORITY; PROVIDING FOR TERMS AND CONDITIONS FOR MEMBERSHIP ON THE AUTHORITY; ESTABLISHING THE POWERS AND DUTIES OF THE AUTHORITY; PROVIDING FOR THE ISSUANCE OF BONDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Alachua County, Florida (the "Board") duly enacted on August 25, 1981, Ordinance No. 81-7, (Chapter 32 of the Alachua County Code), creating the Alachua County Housing Finance Authority and provided for the membership, powers and duties of said Authority; and

WHEREAS, the Board desires to amend Ordinance No. 81-7, which is now codified as Chapter 32, Alachua County Code, to update the provisions thereof with respect to current law and practice;

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

Section 1. Chapter 32 of the Alachua County Code is hereby amended to read as follows:

Sec. 32.01 Definitions.

The act shall mean F.S. ch. 159, pt. IV (F.S. § 159.601 et seq.), the Florida Housing Finance Authority Law.

The authority shall mean the Alachua County Housing Finance Authority.

(b) The terms used in this chapter shall have the meanings set forth in the act unless a different meaning clearly appears from the context.

The terms used in this chapter shall have the meanings set forth in the Florida Housing Finance Authority Law (the "Act") unless a different meaning clearly appears from the context.

Sec. 32.02 Creation.

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.

Sec. 32.03. Membership; appointment of members; compensation of 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 of 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.

Sec. 32.04. Conflict of interest of members or employees.

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.

Sec. 32.05. 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 for cause only after he or she 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.

Sec. 32.06. Powers and duties generally.

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

- (1) 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;

(2). To own real and personal property acquired through the use of surplus funds or through public and private partnerships provided that the obligations of the Authority are limited to project revenues and that no less than 50 percent of the units owned by the Authority shall benefit very-low-income families or low-income families. For the purposes of this subsection, a "very-low-income family" means a family whose income does not exceed 50 percent of the median family income for the area, and the term "low-income family" means a family whose income does not exceed 80 percent of the median family income for the area. Family income levels shall be adjusted for family size. Notwithstanding the other provisions of this subsection, the Authority may acquire real and personal property to house and equip its facilities and staff;

(3) 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;

(4) To borrow money through the issuance of bonds for single-family housing and qualified housing developments, to provide for and secure the payment thereof, and to provide for the rights of the holders thereof;

(5) 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;

(6) 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; and

(7) Such other powers and duties as are set forth in the Act.

Sec. 32.07. Exercise of powers; quorum; legal counsel; employees.

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.

Sec. 32.08. Limitation of Powers.

The powers set forth in Section 32.06 shall be limited as follows:

(1) 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.

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

(3) 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.

Sec. 32.09. Issuance of bonds authorized.

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 chapter. 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, including taxable or tax-exempt bonds, provided that the principal and interest on such bonds are payable solely and only from:

(1) The repayment of any loans made by the Authority pursuant to the provisions of F.S. § 159.608 and section 32.06 of this chapter, or purchased by the authority pursuant to F.S. § 159.608 and section 32.06 of this chapter; or

(2) The sale of any housing loans or commitments to purchase housing loans which are purchased pursuant to F.S. § 159.608 and section 32.06 of this chapter.

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 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.

Sec. 32.10. Form of Bonds.

Bonds of the Authority issued pursuant to the Act and this chapter shall be authorized by a resolution of the Authority and may be validated in the manner prescribed by F.S. ch. 75. 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.

Sec. 32.11. Sale of Bonds.

The bonds issued by the Authority may be sold at public sale substantially in the manner provided by F.S. § 215.68(5)(b) and (c), or any successor statute or pursuant to negotiated sale as provided by F.S. § 215.68(5)(c) , or any successor statute.

In case any member of the Authority whose signature appears on the bonds shall cease to be a member before delivery of the bonds, 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 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 aAuthority or the security therefor issued pursuant hereto, any such bond reciting in substance that it has been issued by the aAuthority 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.

Sec. 32.12. 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.

Sec. 32.13. 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 2. Severability. It is the declared intent of the Board that if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 3. Inclusion in the Code. It is the intention of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Alachua County Code of Ordinances of Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate designation.

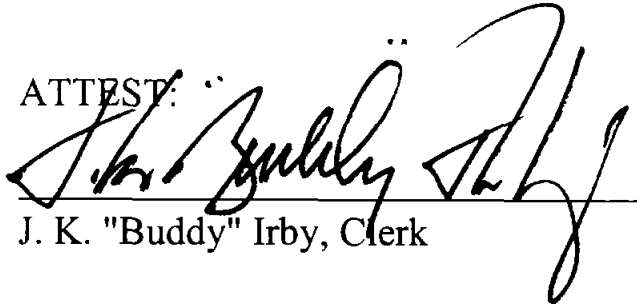
Section 4. Effective Date. A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board within ten (10) days after enactment by the Board, and shall take effect upon filing with the Department of State.

Section 5. The Amended and Restated Ordinance shall not be deemed to adversely impact any previously issued and outstanding bonds of the Authority, and shall be considered additional authority for the issuance thereof.

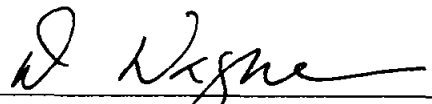
DULY ADOPTED in regular session, this 14th day of December, 1999.

BOARD OF COUNTY COMMISSIONERS
OF ALACHUA COUNTY, FLORIDA

By: 
Penelope Wheat, Chair

ATTEST: 
J. K. "Buddy" Irby, Clerk

APPROVED AS TO FORM


Alachua County Attorney

(SEAL)