

ORDINANCE NO. 82-2

AN ORDINANCE RELATING TO PUBLIC FINANCING FOR HOUSING; CREATING THE HERNANDO COUNTY HOUSING FINANCE AUTHORITY; PROVIDING DEFINITIONS; PROVIDING FOR THE FUNCTIONING OF THE AUTHORITY TO ALLEVIATE A SHORTAGE OF HOUSING AND CAPITAL FOR INVESTMENT IN HOUSING; PROVIDING FOR MEMBERSHIP, POWERS, AND DUTIES; AUTHORIZING HERNANDO COUNTY TO EXERCISE THE POWERS OF THE AUTHORITY UNTIL MEMBERS ARE APPOINTED; PROHIBITING MEMBERS AND EMPLOYEES FROM ACQUIRING OR HAVING CERTAIN INTEREST WITH RESPECT TO A QUALIFYING HOUSING DEVELOPMENT; REQUIRING DISCLOSURES OF INTEREST; PROVIDING FOR REMOVAL OF MEMBERS; AUTHORIZING THE AUTHORITY TO MAKE, PURCHASE, AND SELL LOANS FOR QUALIFYING HOUSING DEVELOPMENTS; PROHIBITING THE FINANCING OF QUALIFYING HOUSING DEVELOPMENTS FOR PROFIT; AUTHORIZING THE AUTHORITY TO ISSUE BONDS AND LIMITING SOURCES FROM WHICH SUCH BONDS ARE PAYABLE; PROVIDING FOR VALIDATION PROCEEDINGS; PROVIDING FOR REMEDIES OF AN OBLIGEE; EXEMPTING BONDS TOGETHER WITH INCOME AND INTEREST THEREON FROM TAXATION; PROVIDING SEVERABILITY; PROVIDING AN EFFECTIVE DATE AND FOR ADOPTION AS AN EMERGENCY ORDINANCE.

FILED

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SECRETARY OF STATE

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BE IT HEREBY ORDAINED BY THE HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS AS FOLLOWS:

SECTION 1. This ordinance is enacted by the Board of County Commissioners pursuant to its powers under Chapter 159, Part IV, Florida Statutes.

SECTION 2. Finding and declaration of necessity. The Hernando County Board of County Commissioners finds and declares that:

(1) Within this county there is a shortage of housing available at prices or rentals which many persons and families can afford and a shortage of capital for investment in such housing. This shortage constitutes a threat to the health, safety, morals, and welfare of the residents of the county, deprives the county of an adequate tax base, and causes the county to make excessive expenditures for crime prevention and control, public health, welfare and safety, fire and accident protection, and other public services and facilities.

(2) Such shortage cannot be relieved except through the encouragement of investment by private enterprises and the stimulation of construction and rehabilitation of housing through the use of public financing.

(3) 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.

(4) 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.

(5) The Legislature of the State of Florida has, by enactment of Chapter 159, Part IV, Florida Statutes, found and determined that local housing finance authorities are the proper means by which counties may avail themselves of the above amendments to the Internal Revenue Code and thereby assist in meeting local need for housing.

(6) The provisions of this ordinance are found and declared to be necessary and in the public interest.

SECTION 3. Definitions.--As used in this act:

(1) "Area of operation" means the area within Hernando County, Florida, incorporated and unincorporated.

(2) "Bonds" means any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness issued by the Hernando County Housing Finance Authority pursuant to this ordinance.

(3) "Housing Finance Authority" means the Hernando County Housing Finance Authority created pursuant to section 4 of this ordinance.

(4) "Housing development" means any residential building, land, equipment, facility, or other real or personal property which may be necessary, convenient, or desirable in connection therewith, including streets, sewers, water and utility services, parks, gardening, administrative, community, health, recreational, and educational facilities, and other facilities related and sub-

ordinate to moderate, middle or lesser income housing, and also includes site preparation, the planning of housing and improvements, the acquisition of property, the removal or demolition of existing structures, the acquisition, construction, reconstruction, and rehabilitation of housing and improvements, and all other work in connection therewith, and all costs of financing, including without limitation the cost of consultant and legal services, other expenses necessary or incident to determining the feasibility of the housing development, administrative and other expenses necessary or incident to the housing development and the financing thereof (including reimbursement to any municipality, county or entity for expenditures made with the approval of the housing finance authority for the housing development), and interest accrued during construction and for a reasonable period thereafter.

(5) "Lending institution" means any bank or trust company, mortgage banker, savings bank, credit union, national banking association, savings and loan association, building and loan association, insurance company, or other financial institution authorized to transact business in the State of Florida and which customarily provides service or otherwise aids in the financing of mortgages located in the state.

(6) "Qualifying housing development" means any housing development which the housing finance authority finds will assist in alleviating the shortage of housing in the area of operation

(7) "Eligible persons" means persons or families, irrespective of race, creed, national origin or sex, determined by the housing finance authority by rule to be of moderate, middle or lesser income requiring such assistance as is made available pursuant to the ordinance on account of insufficient personal or family income and taking into consideration such facts as:

(a) The amount of the total income of such persons and families available for housing needs.

(b) The size of the family.

(c) The cost and condition of available housing facilities.

(d) The ability of such persons and families to compete successfully in the normal, private housing market and

to pay the amounts for which private enterprise is providing sanitary, decent and safe housing.

(e) If appropriate, the standards established for various federal programs determining eligibility based on income of such persons and families.

SECTION 4. Creation of the Hernando County Housing Finance Authority.

(1) There is hereby created a public body corporate and politic to be known as the "Hernando County Housing Finance Authority" to carry out only the powers granted by this ordinance and by Chapter 159, Part IV, Florida Statutes.

(2) The Hernando County Board of County Commissioners may, as its sole discretion, and at any time, alter or change the structure, organization, programs or activities of the housing finance authority and may at any time terminate the authority, subject to any limitation on the impairment of contracts entered into by the authority and subject to the limitations or requirements of this ordinance and Chapter 159, Part IV, Florida Statutes.

SECTION 5. Members, employees; duties and compensation.

(1) The housing finance authority shall be composed of five members appointed by the Board of County Commissioners, one of whom shall be designated by the Board as chairman. Not less than three of the members shall be knowledgeable in one of the following fields: labor, finance or commerce. The terms of the members shall be 4 years each, except that the terms of the initial members shall be as follows: two members shall serve a term of 1 year; one member shall serve a term of 2 years; one member shall serve a term of 3 years; and one member shall serve a term of 4 years. A member of the housing finance authority shall hold office until his successor has been appointed and has qualified. Each vacancy shall be filled by the Board of County Commissioners for the remainder of the unexpired term. 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. The Hernando County Board of County Commissioners shall carry out the powers of a Housing Finance Authority under this ordinance and under Chapter 159, Part IV, Florida Statutes, pursuant to Section 159,605 (3),

Florida Statutes, until such time as the members of said authority are otherwise appointed.

(2) The powers of the housing finance authority granted by this ordinance shall be vested in the members of the housing finance authority in office from time to time. Three members shall constitute a quorum, and action may be taken by the housing finance authority upon a vote of a majority of the members present. The housing finance authority may employ such agents and employees, permanent or temporary, as it may require and shall determine the qualifications, duties, and compensation of such agents and employees. The housing finance authority may delegate to an agent or employee such powers or duties as it may deem proper. Legal counsel for the Board of County Commissioners of Hernando County shall serve as legal counsel for the housing finance authority.

(3) Until the members of the housing finance authority are appointed, the Board of County Commissioners and the chairman of the housing finance authority shall have full authority to carry out the powers of the housing finance authority under this ordinance, provided, however, that the Board shall not delegate its authority to the chairman under this provision. Except as provided in this section, no member of the housing finance authority may be an officer or employee of Hernando County.

SECTION 6. Conflicts of interest; disclosure. No member or employee of the housing finance authority shall acquire any interest, direct or indirect, in any qualifying connection with any qualifying housing development. If any member or employee of the housing finance 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 housing finance authority. Such disclosure shall be entered upon the minutes of the housing finance authority. Failure so to disclose such interest shall constitute misconduct in office.

SECTION 7. Removal of members. A member of the housing finance authority may be removed without cause by a 3/5 vote of the Board of County Commissioners, or for neglect of duty or misconduct in office by a majority vote of the Board of County Commissioners.

SECTION 8. Powers of the housing finance authority.

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

(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 its powers, and to make and from time to time amend and repeal by-laws, rules and regulations, not inconsistent with this ordinance, to carry into effect the powers and purposes of the housing finance authority.

(2) 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 housing finance 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 the qualifying housing development or portion thereof; provided that the proceeds of sale or equivalent monies shall be reinvested in mortgage loans.

(3) 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 the area of operation of the housing finance authority. 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 housing finance authority must find that such loan will assist in alleviating the shortage of housing and of capital for investment in housing within its area of operation.

(4) To invest, with the concurrence 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 and the authority may legally invest funds subject to their control.

SECTION 9. Limitation. The housing finance 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 government unit.

SECTION 10. No power of eminent domain. The housing finance authority shall not have the power to acquire any real property by the exercise of the power of eminent domain to accomplish any of the purposes specified in this ordinance.

SECTION 11. Planning, zoning, and building laws. 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 12. Bonds.

(1) The housing finance authority may issue revenue bonds from time to time in the discretion of the housing finance authority for the purposes of this ordinance. The housing finance authority may also issue refunding bonds for the purpose of paying, retiring, or refunding bonds previously issued by it. The housing finance 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 housing finance authority pursuant to the provisions of section 8 or purchased by the housing finance authority pursuant to section 8 or

(b) The sale of any housing loans or commitments to purchase housing loans which are purchased pursuant to section 8.

(2) Any bonds issued pursuant to the provisions of this ordinance shall be secured by a mortgage or other security device.

(3) In no event shall any bonds issued pursuant to the provisions of this ordinance be payable from the general revenues

of the housing finance authority.

SECTION 13. Form and sale of bonds.

(1) Bonds of the housing finance authority issued pursuant to this ordinance shall be authorized by a resolution of the housing finance authority and 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 privileges, have such rank or priority, be executed by such members of the housing finance authority and in such manner, be payable in such mean of payment at such places, and be subject to such terms of redemption, with or without premium, as such resolution or any trust indenture entered into pursuant to such resolution may provide, provided, however, that the provisions of Florida Statutes S 215.685 shall apply.

(2) (a) The bonds issued by the authority shall be sold by the authority at public sale substantially in the manner provided by Florida Statutes S 215.68(5) (b) and (c), unless otherwise approved by the State Board of Administration; provided that such requirement shall be deemed waived if (i) the State Board of Administration has not responded in writing within 30 days from the date of application, or (ii) if:

(A) 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; (B) 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 (C) 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.

(b) 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; provided, however, that no such bonds shall be so sold or delivered on terms less favorable than the terms contained in any 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.

(3) In case any member of the housing finance authority whose signature appears on the bonds or coupons shall cease to be a member before the 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 this ordinance shall be fully negotiable.

(4) Pursuant to Chapter 159, Part IV, Florida Statutes, in any suit, action or proceeding involving the validity or enforceability of any bond of the housing finance authority or the security therefor issued pursuant hereto, any such bond reciting in substance that it has been issued by the housing finance authority to assist in providing financing of a qualifying housing development to alleviate the shortage of housing in its area of operation shall be conclusively deemed to have been issued for a qualifying housing development of such character.

SECTION 14. Provisions of bonds and trust indentures.

In connection with the issuance of bonds and in order to secure the payment of such bonds, the housing finance authority, in addition to the other powers granted pursuant to this ordinance, shall have power:

(1) To pledge all or any part of any payment made to the housing finance authority pursuant to any loan agreement or pursuant to a sale of any loan or loan commitment.

(2) To covenant against pledging or assigning all or any part of any payments made pursuant to any loan agreement or pursuant to the sale of any loan or loan commitment or against permitting or suffering any lien on such payments; and to covenant as to what other or additional debts or obligations may be incurred by the housing finance authority with respect to any qualifying housing development.

(3) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise and as to the use and disposition of the proceeds thereof; and to provide for the replacement of lost, destroyed or mutilated bonds; to covenant

against extending the time for the payment of its bonds or interest thereon; and to redeem the other bonds, covenant for their redemption, and provide the terms and conditions thereof.

(4) To create or to authorize the creation of special funds for moneys held for construction costs, debt service, reserves, or other purposes; and to covenant as to the construction and disposition of the moneys held in such special funds.

(5) To prescribe the procedure, if any, by which the terms of any contract with the holder of any bonds may be amended or abrogated, the amount of the bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by the housing finance authority of any covenant, condition or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(7) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by the housing finance authority, to collect the payments made pursuant to any loan agreement or pursuant to the sale of any loan or loan commitment and to dispose of such rights in accordance with the agreement of the housing finance authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees of the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

SECTION 15. Validation of bonds and proceedings. The housing finance authority shall determine its authority to issue any of its bonds, and the legality of all proceedings had or taken in connection therewith, in the same manner and to the same extent as provided in Chapter 75, Florida Statutes, for the determination by a county, municipality, taxing district, or other political subdivision of its authority to incur bonded

debt or to issue certificates of indebtedness and of the legality of all proceedings had or taken in connection therewith.

SECTION 16. Actions to contest validity of bonds. An action or proceeding to contest the validity of any bond issued under this ordinance, other than a proceeding pursuant to section 15, must be commenced within 30 days after notification in a newspaper of general circulation within the area of the passage by the housing finance authority of the resolution authorizing the issuance of such bond.

SECTION 17. Remedies of an obligee of a housing finance authority. An obligee of the housing finance authority shall have the right, in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(1) By mandamus, suit, action or proceeding at law or in equity, to compel the housing finance authority and the members, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any contract of the housing finance authority with or for the benefit of such obligee, and to require the carrying out of any or all of the covenants and agreements of the housing finance authority and the fulfillment of all duties imposed upon the housing finance authority by this ordinance.

(2) By suit, action, or proceeding in equity, to enjoin any acts or things which may be unlawful or the violation of any of the rights of the obligee by the housing finance authority.

SECTION 18. Additional remedies conferrable by the housing finance authority. The housing finance authority shall have power by resolution, trust indenture, or other contract to confer upon any obligee holding or representing a specified amount in bonds, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instrument, by suit, action, or proceeding in any court of competent jurisdiction:

(1) To obtain the appointment of a receiver of any payments made pursuant to any loan agreement or sale of any loan. If such receiver be appointed, he may collect and receive all payments made pursuant to any such loan agreement or sale of any loan or loan commitment and shall keep such moneys in a

separate account or accounts and apply the same in accordance with the obligations of the housing finance authority as the court shall direct.

(2) To require the housing finance authority and the members thereof to account as if it and they were the trustees of an express trust.

SECTION 19. Availability of financing. Whenever and as long as a shortage of housing exists in Hernando County, the housing finance authority shall not unreasonably refuse to participate in the financing of any qualifying housing development upon request.

SECTION 20. Liabilites of a housing finance authority. In no event shall the liabilites, whether ex contractu or ex delicto, of the housing finance 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 21. Housing bonds exempted from taxation. The bonds of the housing finance authority issued under this ordinance, together with interest thereon and income therefrom, shall be exempt from all taxes. However, pursuant to Chapter 78-89, Laws of Florida, the exemption granted by this section shall not be applicable to any tax imposed by Chapter 220, Florida Statutes, on interest, income, or profits on debt obligations owned by corporations.

SECTION 22. The provisions of this ordinance shall be liberally construed in order to effectively carry out the purposes of this ordinance.

SECTION 23. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 24. Limitation on rates. The intent of this legislation is that consumers receive maximum possible benefits; therefore, no lending institution receiving proceeds of bond issues pursuant to this ordinance may loan any of the proceeds of such bond issue at the rate violative of federal arbitrage regulations.

SECTION 25. This ordinance is adopted as an emergency measure pursuant to Section 125.66 (3), Florida Statutes, upon

a finding that an emergency exists by virtue of the following; to-wit:

(a) Under Executive order (81-155) of the Governor of Florida a Housing Finance Authority must be created prior to February 1, 1982, if bonding funds are to be authorized during the calendar year 1982;

(b) The building industry in Hernando County is in distress and is in dire need of immediate assistance in the form of housing bonds. This ordinance has been adopted as an emergency ordinance by the unanimous vote of all 5 members of the Board of County Commissioners and the notice requirements of Section 125,66, Florida Statutes are hereby waived. This ordinance shall be effective when a copy hereof has been accepted by the postal authorities of the Government of the United States for special delivery by registered mail to the Department of State.

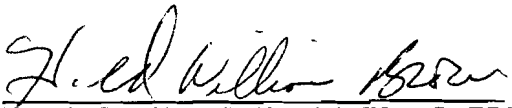
ADOPTED in regular session of the Hernando County Board of County Commissioners on this 26th day of January, 1982.

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

By


FRANK FISH, CHAIRMAN

Attest:


HAROLD WILLIAM BROWN, CLERK