

ORDINANCE NO. 85-33

AN ORDINANCE RELATING TO AND CREATING THE HOUSING FINANCE AUTHORITY OF HILLSBOROUGH COUNTY, FLORIDA; DECLARING THE NEED FOR THE AUTHORITY TO ALLEVIATE HOUSING AND INVESTMENT CAPITAL SHORTAGES; PROVIDING DEFINITIONS; PROVIDING FOR MEMBERSHIP AND THE EXERCISE OF POWERS; PROHIBITING CONFLICTS OF INTEREST AND REQUIRING DISCLOSURE OF INTERESTS; PROVIDING FOR REMOVAL OF MEMBERS; SETTING FORTH THE POWERS AND CERTAIN LIMITATIONS OF THE AUTHORITY; AUTHORIZING THE AUTHORITY TO ISSUE BONDS; PROVIDING FOR THE FORM AND SALE OF BONDS; PROVIDING FOR VALIDATION PROCEEDINGS; PROVIDING FOR REMEDIES OF AN OBLIGEE; EXEMPTING BONDS FROM TAXATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida enacted the Florida Housing Finance Authority Law, Chapter 159, Part IV, Florida Statutes, in which it found and declared that:

(1) Within this state 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 state, deprives the state of an adequate tax base, and causes the state 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 enterprise 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; and

WHEREAS, the Florida Housing Finance Authority Law authorizes each county in the state to create by ordinance a separate public body corporate and politic, to be known as the "Housing Finance Authority" of the county for which it is created.

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

SECTION 1. This ordinance is enacted pursuant to the Florida Housing Finance Authority Law, Chapter 159, Part IV (Sections 159.601 - 159.623), Florida Statutes.

SECTION 2. FINDING AND DECLARATION. It is hereby found that there is a shortage of housing and capital for

investment in housing within Hillsborough County ("County") and declared that there is a need for a housing finance authority in the County to alleviate these housing and investment capital shortages.

SECTION 3. DEFINITIONS. As used in this ordinance:

(a) "Area of operation" means the area within the territorial boundaries of Hillsborough County, Florida, and any area outside the territorial boundaries of Hillsborough County if the governing body of the county within which such outside area is located approves. The approval may be general approval or an approval only for specified qualifying housing developments or only for a specified number of qualifying housing developments.

(b) "Authority" means the Housing Finance Authority of Hillsborough County, Florida, created by this ordinance pursuant to Section 159.604, Florida Statutes.

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

(d) "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 subordinate 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 Authority for the housing development), and interest accrued during construction and for a reasonable period thereafter.

(e) "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 this state and which customarily provides service or otherwise aids in the financing of mortgages located in the state.

(f) "Qualifying housing development" means any housing development which the Authority finds will assist in alleviating the shortage of housing in its area of operation.

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

1. The amount of the total income of such persons and families available for housing needs.
2. The size of the family.
3. The cost and condition of available housing facilities.
4. 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.
5. If appropriate, the standards established for various federal programs determining eligibility based on income of such persons and families.

SECTION 4. CREATION

(a) There is hereby created a separate public body corporate and politic to be known as the Housing Finance Authority

of Hillsborough County, Florida ("Authority"), which is to carry out only the powers granted in this ordinance.

(b) The Authority shall not transact any business or exercise any powers under this ordinance until the Board of County Commissioners passes a resolution declaring the need for a housing finance authority to function to alleviate a shortage of housing and capital for investment in housing in its area of operation.

(c) The County may, at its sole discretion, and at any time, alter or change the structure, organization, programs, or activities of the Authority, including the power to 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.

(d) The Board of County Commissioners shall, from time to time, transmit statements of policy to the Authority which the Authority shall consider as guides to its operation under this ordinance.

SECTION 5. MEMBERS, EMPLOYEES, DUTIES AND COMPENSATION.

(a) The Authority shall be composed of five members appointed by the Board of County Commissioners, one of whom shall be designated 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 four years each, except that the terms of the initial members shall be as follows: two members shall serve a term of one year; one member shall serve a term of two years; one member shall serve a term of three years; and one member shall serve a term of four years. A member 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 Hillsborough 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 traveling expenses, incurred in the discharge of his duties.

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

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

SECTION 6. CONFLICTS OF INTEREST; DISCLOSURE. 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 or she have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or issued 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 development, he or she 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 7. REMOVAL OF MEMBERS. A member of the Authority may be removed without cause by a three-fifths 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. A member may be removed only after he or she has been given a copy of the charges at least ten 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 with the Clerk of the Circuit Court of Hillsborough County.

SECTION 8. POWERS OF THE HOUSING FINANCE AUTHORITY. The 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:

(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 its powers, and to make and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with 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 the 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 the area of operation of the 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 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.

(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.

SECTION 9. LIMITATION. 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 government unit.

SECTION 10. EMINENT DOMAIN. The Authority shall have no 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 situated.

SECTION 12. BONDS. Subject to the limitations set forth in Section 14 of this ordinance:

(a) The Authority may issue revenue bonds from time to time in the discretion of the Authority for the purposes of 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:

1. The repayment of any loans made by the Authority pursuant to the provisions of Section 8 or purchased by the Authority pursuant to Section 8; or

2. The sale of any housing loans or commitments to purchase housing loans which are purchased pursuant to Section 8.

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

(c) 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.

(d) 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 Hillsborough County or the state, or any political subdivision thereof; and neither the County, nor the state or any 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 13. FORM AND SALE OF BONDS.

(a) Bonds of the Authority issued pursuant to this ordinance shall be authorized by a resolution of the 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 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 or any trust indenture entered into pursuant to such resolution may provide. However, the provisions of Section 215.84, Florida Statutes, shall apply.

(b) 1. The bonds issued by the Authority shall be sold by the Authority 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 requirement shall be deemed waived if the State Board of Administration has not responded in writing within thirty 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 State Board of Administration prior to the closing.

2. 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 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.

(c) In case any member of the Authority whose signature appears on the bonds or coupons ceases 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.

(d) In any suit, action, or proceeding involving the validity or enforceability 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 its area of operation shall

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

SECTION 14. APPROVAL BY BOARD OF SALE OF BONDS AND NOTES.

The sale of the bonds and notes authorized to be issued by the Authority pursuant to this ordinance shall be subject to the approval of the Board of County Commissioners prior to the validation requirements of Section 16.

SECTION 15. PROVISIONS OF BONDS AND TRUST INDENTURES. In connection with the issuance of bonds and in order to secure the payment of such bonds, the Authority, in addition to the other powers granted pursuant to this ordinance, shall have power:

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

(b) 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 Authority with respect to any qualifying housing development.

(c) 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.

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

(e) 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.

(f) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by the 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.

(g) 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 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 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 16. VALIDATION OF BONDS AND PROCEEDINGS. The 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 17. 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 16, must be commenced within 30 days after notification in a

newspaper of general circulation within the area of the passage by the Authority of the resolution authorizing the issuance of such bond.

SECTION 18. REMEDIES OF AN OBLIGEE OF AUTHORITY. An obligee of the 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:

(a) By mandamus, suit, action, or proceeding at law or in equity, to compel the Authority and the members, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any contract of the 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 Authority and the fulfillment of all duties imposed upon the Authority by this ordinance.

(b) 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 Authority.

SECTION 19. ADDITIONAL REMEDIES CONFERRABLE BY THE AUTHORITY. The 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:

(a) To obtain the appointment of a receiver of any payments made pursuant to any loan agreement or sale of any loan. If such receiver is appointed, he or she 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 monies in a separate account or accounts and apply the same in accordance with the obligations of the Authority as the court shall direct.

(b) To require the Authority and the members thereof to account as if it and they were the trustees of an express trust.

SECTION 20. AVAILABILITY OF FINANCING. As long as a shortage of housing exists in Hillsborough County, the Authority shall not unreasonably refuse to participate in the financing of any qualifying housing development upon request.

SECTION 21. 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 22. HOUSING BONDS EXEMPTED FROM TAXATION. The bonds of the Authority issued under this ordinance, together with interest thereon and income therefrom, shall be exempt from all taxes. However, 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 23. LIMITATIONS ON RATES. The intent of this ordinance 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 24. The provisions of this ordinance shall be liberally construed in order to effectively carry out the purpose of this ordinance.

SECTION 25. SEVERABILITY. If any section, sentence, clause, part, or provision of this ordinance is held to be invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 26. EFFECTIVE DATE. This ordinance shall take effect upon receipt of official acknowledgment from the Department of State that it has been filed.

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, JAMES F. TAYLOR, JR., Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an ordinance adopted by the Board at its regular meeting of October 9, 1985, as the same appears of record in MINUTE BOOK 113 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 14th day of October, 1985.

JAMES F. TAYLOR, JR.
CLERK OF THE CIRCUIT COURT

By: [Signature]
Deputy Clerk

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH
THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND
CORRECT COPY OF Hillsborough County Ordinance
85-33 approved by the BOCC on
October 9, 1985
WITNESS MY HAND AND OFFICIAL SEAL THIS
14th DAY OF October, 2014.

PAT FRANK, CLERK
BY: [Signature]
Deputy Clerk

APPROVED BY COUNTY ATTORNEY

[Signature]

