



CERTIFICATION

STATE OF FLORIDA

§

COUNTY OF ORANGE

I HEREBY CERTIFY that the foregoing is a true and correct copy of **Ordinance 78-18** as adopted by the Board of County Commissioners at its regular meeting held **October 31, 1978**, which is on file in the office of the Comptroller Clerk of the Board of County Commissioners.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of the Board of County Commissioners, Orange County, Florida, this **22nd** day of **May 2002**.

Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners
Orange County, Florida

By: _____

Rosilyn M. Stapleton
Deputy Clerk

OCT 31 1978

#78-18

1 An ordinance relating to public financing
2 for housing; creating the Orange County Housing
3 Finance Authority; providing definitions; pro-
4 viding for the functioning of the authority to
5 alleviate a shortage of housing and capital for
6 investment in housing; providing for membership,
7 powers, and duties; authorizing Orange County to
8 exercise the powers of the authority until mem-
9 bers are appointed; prohibiting members and
10 employees from acquiring or having certain
11 interests with respect to a qualifying housing
12 development; requiring disclosures of interest;
13 providing for removal of members; authorizing
14 the authority to make, purchase, and sell loans
15 for qualifying housing developments; prohibiting
16 the financing of qualifying housing developments
17 for profit; authorizing the authority to issue
18 bonds and limiting sources from which such bonds
19 are payable; providing for validation proceedings;
20 providing for remedies of an obligee; exempting
21 bonds together with income and interest thereon
22 from taxation; providing severability; providing
23 an effective date.

24 BE IT ORDAINED BY THE ORANGE COUNTY BOARD OF COUNTY

25 COMMISSIONERS:

26 Section 1. This ordinance is enacted by the Board of
27 County Commissioners pursuant to its powers under Chapter 78-89,
28 Laws of Florida.

29 Section 2. Finding and declaration of necessity. The
30 Orange County Board of County Commissioners finds and declares
31 that:

32 (1) Within this county there is a shortage of housing
33 available at prices or rentals which many persons and families
34 can afford and a shortage of capital for investment in such
35 housing. This shortage constitutes a threat to the health,
36 safety, morals, and welfare of the residents of the county,

1 deprives the county of an adequate tax base, and causes the
2 county to make excessive expenditures for crime prevention
3 and control, public health, welfare and safety, fire and
4 accident protection, and other public services and facili-
5 ties.

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

10 (3) The financing, acquisition, construction, recon-
11 struction, and rehabilitation of housing and of the real
12 and personal property and other facilities necessary, inci-
13 dental, and appurtenant thereto are exclusively public uses
14 and purposes for which public money may be spent, advanced,
15 loaned, or granted and are governmental functions of public
16 concern.

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

25 (5) The Legislature of the State of Florida has, by
26 enactment of Chapter 78-89, Laws of Florida, found and
27 determined that local housing finance authorities are the
28 proper means by which counties may avail themselves of the
29 above amendments to the Internal Revenue Code and thereby
30 assist in meeting local need for housing.

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

33 Section 3. Definitions.--As used in this act:

34 (1) "Area of operation" means the area within Orange
35 County, Florida, and any area outside Orange County if the
36

1 governing body of the county within which such outside area
2 is located approves pursuant to Chapter 78-89, Laws of
3 Florida.

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

8 (3) "Housing Finance Authority" means the Orange County
9 Housing Finance Authority created pursuant to section 4 of
10 this ordinance.

11 (4) "Housing development" means any residential building,
12 land, equipment, facility, or other real or personal property
13 which may be necessary, convenient, or desirable in connection
14 therewith, including streets, sewers, water and utility ser-
15 vices, parks, gardening, administrative, community, health,
16 recreational, and educational facilities, and other facilities
17 related and subordinate to moderate, middle or lesser income
18 housing, and also includes site preparation, the planning of
19 housing and improvements, the acquisition of property, the
20 removal or demolition of existing structures, the acquisition,
21 construction, reconstruction, and rehabilitation of housing
22 and improvements, and all other work in connection therewith,
23 and all costs of financing, including without limitation the
24 cost of consultant and legal services, other expenses necessary
25 or incident to determining the feasibility of the housing
26 development, administrative and other expenses necessary or
27 incident to the housing development and the financing thereof
28 (including reimbursement to any municipality, county or
29 entity for expenditures made with the approval of the housing
30 finance authority for the housing development), and interest
31 accrued during construction and for a reasonable period
32 thereafter.

33 (5) "Lending institution" means any bank or trust
34 company, mortgage banker, savings bank, credit union,
35 national banking association, savings and loan association,
36 building and loan association, insurance company, or other

1 financial institution authorized to transact business in the
2 State of Florida and which customarily provides service or
3 otherwise aids in the financing of mortgages located in the
4 state.

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

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

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

18 (b) The size of the family.

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

21 (d) The ability of such persons and families to
22 compete successfully in the normal, private housing market
23 and to pay the amounts for which private enterprise is
24 providing sanitary, decent and safe housing.

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

28 Section 4. Creation of the Orange County Housing
29 Finance Authority.

30 (1) There is hereby created a public body corporate
31 and politic to be known as the "Orange County Housing
32 Finance Authority" to carry out only the powers granted by
33 this ordinance and by Chapter 78-89, Laws of Florida.

34 (2) The Orange County Board of County Commissioners may,
35 at its sole discretion, and at any time, alter or change the
36 structure, organization, programs or activities of the

1 housing finance authority and may at any time terminate the
2 authority, subject to any limitation on the impairment of
3 contracts entered into by the authority and subject to the
4 limitations or requirements of this ordinance and Chapter
5 78-89, Laws of Florida.

6 Section 5. Members, employees; duties and compensation.

7 (1) The housing finance authority shall be composed of
8 five members appointed by the Board of County Commissioners,
9 one of whom shall be designated by the Board as chairman. Not
10 less than three of the members shall be knowledgeable in one
11 of the following fields: labor, finance or commerce. The
12 terms of the members shall be 4 years each, except that the
13 terms of the initial members shall be as follows: two members
14 shall serve a term of 1 year; one member shall serve a term of
15 2 years; one member shall serve a term of 3 years; and one
16 member shall serve a term of 4 years. A member of the housing
17 finance authority shall hold office until his successor has
18 been appointed and has qualified. Each vacancy shall be filled
19 by the Board of County Commissioners for the remainder of the
20 unexpired term. A certificate of the appointment or reap-
21 pointment of any member of the housing finance authority
22 shall be filed with the Comptroller of Orange County, and the
23 certificate shall be conclusive evidence of the due and
24 proper appointment of the member. A member shall receive no
25 compensation for his services, but shall be entitled to
26 necessary expenses, including travel expenses, incurred in
27 the discharge of his duties.

28 (2) The powers of the housing finance authority granted
29 by this ordinance shall be vested in the members of the
30 housing finance authority in office from time to time. Three
31 members shall constitute a quorum, and action may be taken by
32 the housing finance authority upon a vote of a majority of the
33 members present. The housing finance authority may employ
34 such agents and employees, permanent or temporary, as it may
35 require and shall determine the qualifications, duties, and
36 compensation of such agents and employees. The housing

1 finance authority may delegate to an agent or employee such
2 powers or duties as it may deem proper. Legal counsel for
3 the Board of County Commissioners of Orange County shall
4 serve as legal counsel for the housing finance authority
5 unless the authority decides by majority vote of its full
6 membership to employ different counsel.

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

16 Section 6. Conflicts of interest; disclosure. No
17 member or employee of the housing finance authority shall
18 acquire any interest, direct or indirect, in any qualifying
19 connection with any qualifying housing development. If any
20 member or employee of the housing finance authority owns or
21 controls an interest, direct or indirect, in any property
22 included or planned to be included in any qualifying housing
23 project, he shall immediately disclose the same in writing
24 to the housing finance authority. Such disclosure shall be
25 entered upon the minutes of the housing finance authority.
26 Failure so to disclose such interest shall constitute miscon-
27 duct in office.

28 Section 7. Removal of members. A member of the housing
29 finance authority may be removed without cause by a 3/5 vote
30 of the Board of County Commissioners, or for neglect of duty
31 or misconduct in office by a majority vote of the Board of
32 County Commissioners. A member may be removed only after that
33 member has been given a copy of the charges at least ten days
34 prior to the hearing thereon and has had an opportunity to
35 be heard in person or by counsel. If a member is removed,
36 a record of the proceedings, together with the charges

1 and findings thereon, shall be filed in the office of the
2 Comptroller of Orange County.

3 Section 8. Powers of the housing finance authority.

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

9 (1) To sue and be sued, to have a seal and to alter
10 the same at pleasure, to have perpetual succession, to make
11 and execute contracts and other instruments necessary or
12 convenient to the exercise of its powers, and to make and
13 from time to time amend and repeal by-laws, rules and regu-
14 lations, not inconsistent with this ordinance, to carry into
15 effect the powers and purposes of the housing finance autho-
16 rity.

17 (2) To purchase or make commitments to purchase or to
18 make loans for such purpose and to take assignments of from
19 lending institutions acting as a principal or as an agent
20 of the housing finance authority, mortgage loans and promis-
21 sory notes accompanying such mortgage loans, including
22 federally insured mortgage loans or participations with
23 lending institutions in such promissory notes and mortgage
24 loans for the construction, purchase, reconstruction, or
25 rehabilitation of the qualifying housing development or
26 portion thereof; provided that the proceeds of sale or
27 equivalent moneys shall be reinvested in mortgage loans.

28 (3) To make loans to lending institutions under terms
29 and conditions requiring the proceeds thereof to be used by
30 such lending institutions for the making of new mortgages for
31 any qualifying housing development, or portion thereof,
32 located wholly or partially within the area of operation of
33 the housing finance authority. Prior to making a loan to a
34 lending institution which makes such loans or provides such
35 financing, the lending institution must agree to use the
36 proceeds of such loan within a reasonable period of time to

1 make loans or to otherwise provide financing for the acqui-
2 sition, construction, reconstruction, or rehabilitation of
3 a housing development or portion thereof, and the housing
4 finance authority must find that such loan will assist in
5 alleviating the shortage of housing and of capital for
6 investment in housing within its area of operation.

7 (4) To invest, with the concurrence of the lending insti-
8 tution, any funds held in reserves or sinking funds or any
9 funds not required for immediate disbursement in property or
10 securities in which lending institutions and the authority may
11 legally invest funds subject to their control.

12 Section 9. Limitation. The housing finance authority
13 shall not finance the acquisition, construction, recon-
14 struction, or rehabilitation of any qualifying housing
15 development for its own profit or as a source of revenue to
16 the state or any local government unit.

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

21 Section 11. Planning, zoning, and building laws. Each
22 qualifying housing development shall be subject to the
23 planning, zoning, health, and building laws, ordinances and
24 regulations applicable to the place in which such qualifying
25 housing development is situate.

26 Section 12. Bonds.

27 (1) The housing finance authority may issue revenue
28 bonds from time to time in the discretion of the housing
29 finance authority for the purposes of this ordinance. The
30 housing finance authority may also issue refunding bonds for
31 the purpose of paying, retiring, or refunding bonds previously
32 issued by it. The housing finance authority may issue such
33 types of bonds as it may determine; provided that the
34 principal and interest on such bonds are payable solely and
35 only from:
36

1 (a) The repayment of any loans made by the
2 housing finance authority pursuant to the provisions of
3 section 8 or purchased by the housing finance authority
4 pursuant to section 8; or

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

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

11 (3) In no event shall any bonds issued pursuant to
12 the provisions of this ordinance be payable from the general
13 revenues of the housing finance authority.

14 Section 13. Form and sale of bonds.

15 (1) Bonds of the housing finance authority issued
16 pursuant to this ordinance shall be authorized by a reso-
17 lution of the housing finance authority and may be issued
18 in one or more series and shall bear such dates, mature
19 at such times, bear interest at such rates, be in such
20 denominations, be in such form, either coupon or registered,
21 carry such conversion or registration privileges, have such
22 rank or priority, be executed by such members of the housing
23 finance authority and in such manner, be payable in such mean
24 of payment at such places, and be subject to such terms of
25 redemption, with or without premium, as such resolution or
26 any trust indenture entered into pursuant to such resolution
27 may provide, provided, however, that the provisions of
28 Florida Statutes § 215.685 shall apply.

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

36 (A) the bonds are rated by at least one nationally recognized.

1 rating service in any one of the three highest classifications
2 approved by the Comptroller of the Currency for the investment
3 of funds of national banks; (B) an appropriate certification
4 and opinion of counsel pursuant to the applicable arbitrage
5 regulations under Section 103(c) of the Internal Revenue
6 Code are delivered simultaneously with the delivery of the
7 bonds; and (C) the official statement issued in connection
8 with the sale of the bonds has been filed with the State
9 Board of Administration prior to the closing.

10 (b) In the event an offer of an issue of bonds at
11 public sale produces no bid, or in the event all bids
12 received are rejected, the authority is authorized to
13 negotiate for the sale of such bonds under such rates and
14 terms as are acceptable; provided, however, that no such
15 bonds shall be so sold or delivered on terms less favorable
16 than the terms contained in any bids rejected at the public
17 sale thereof, or the terms contained in the notice of public
18 sale if no bids were received at such public sale.

19 (3) In case any member of the housing finance authority
20 whose signature appears on the bonds or coupons shall cease to
21 be a member before the delivery of the bonds or coupons, such
22 bonds shall, nevertheless, be valid and sufficient for all
23 purposes, the same as if such member had remained in office
24 until such delivery. Any provision of law to the contrary
25 notwithstanding, any bonds issued pursuant to this ordinance
26 shall be fully negotiable.

27 (4) Pursuant to Chapter 78-89, Laws of Florida, in any
28 suit, action or proceeding involving the validity or enforcea-
29 bility of any bond of the housing finance authority or the
30 security therefor issued pursuant hereto, any such bond
31 reciting in substance that it has been issued by the housing
32 finance authority to assist in providing financing of a
33 qualifying housing development to alleviate the shortage of
34 housing in its area of operation shall be conclusively deemed
35 to have been issued for a qualifying housing development of
36 such character.

1 Section 14. Provisions of bonds and trust indentures.

2 In connection with the issuance of bonds and in order to
3 secure the payment of such bonds, the housing finance authority,
4 in addition to the other powers granted pursuant to this ordi-
5 nance, shall have power:

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

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

16 (3) To covenant as to the bonds to be issued and as to
17 the issuance of such bonds in escrow or otherwise and as to
18 the use and disposition of the proceeds thereof; and to
19 provide for the replacement of lost, destroyed or mutilated
20 bonds; to covenant against extending the time for the payment
21 of its bonds or interest thereon; and to redeem the other
22 bonds, covenant for their redemption, and provide the terms
23 and conditions thereof.

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

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

34 (6) To covenant as to the rights, liabilities, powers,
35 and duties arising upon the breach by the housing finance
36 authority of any covenant, condition or obligation; and to

1 covenant and prescribe as to events of default and terms and
2 conditions upon which any or all of its bonds or obligations
3 shall become or may be declared due before maturity and as to
4 the terms and conditions upon which such declaration and its
5 consequences may be waived.

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

20 Section 15. Validation of bonds and proceedings. The
21 housing finance authority shall determine its authority to
22 issue any of its bonds, and the legality of all proceedings
23 had or taken in connection therewith, in the same manner and
24 to the same extent as provided in Chapter 75, Florida
25 Statutes, for the determination by a county, municipality,
26 taxing district, or other political subdivision of its
27 authority to incur bonded debt or to issue certificates of
28 indebtedness and of the legality of all proceedings had or
29 taken in connection therewith.

30 Section 16. Actions to contest validity of bonds. An
31 action or proceeding to contest the validity of any bond
32 issued under this ordinance, other than a proceeding pursuant
33 to section 15, must be commenced within 30 days after noti-
34 fication in a newspaper of general circulation within the
35 area of the passage by the housing finance authority of the
36 resolution authorizing the issuance of such bond.

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

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

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

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

28 (1) To obtain the appointment of a receiver of any
29 payments made pursuant to any loan agreement or sale of any
30 loan. If such receiver be appointed, he may collect and
31 receive all payments made pursuant to any such loan agreement
32 or sale of any loan or loan commitment and shall keep such
33 moneys in a separate account or accounts and apply the same
34 in accordance with the obligations of the housing finance
35 authority as the court shall direct.

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

4 Section 19. Availability of financing. Whenever and
5 as long as a shortage of housing exists in Orange County,
6 the housing finance authority shall not unreasonably refuse
7 to participate in the financing of any qualifying housing
8 development upon request.

9 Section 20. Liabilities of a housing finance authority.
10 In no event shall the liabilities, whether ex contractu or
11 ex delicto, of the housing finance authority arising from
12 the financing of any qualifying housing development be payable
13 from any funds other than the revenues or receipts of such
14 qualifying housing development.

15 Section 21. Housing bonds exempted from taxation. The
16 bonds of the housing finance authority issued under this
17 ordinance, together with interest thereon and income therefrom,
18 shall be exempt from all taxes. However, pursuant to Chapter
19 78-89, Laws of Florida, the exemption granted by this section
20 shall not be applicable to any tax imposed by Chapter 220,
21 Florida Statutes, on interest, income, or profits on debt
22 obligations owned by corporations.

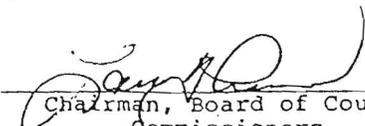
23 Section 22. The provisions of this ordinance shall be
24 liberally construed in order to effectively carry out the
25 purposes of this ordinance.

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

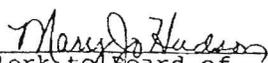
32 Section 24. Limitation on rates. The intent of this
33 legislation is that consumers receive maximum possible
34 benefits; therefore, no lending institution receiving proceeds
35 of bond issues pursuant to this ordinance may loan any of
36 the proceeds of such bond issue at the rate violative of

1 federal arbitration regulations.

2 Section 25. This ordinance shall take effect when the
3 Board of County Commissioners is notified that the ordinance
4 has been filed by the Secretary of State.

5
6
7 
8 Chairman, Board of County
Commissioners

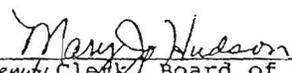
9 ATTEST:

10 
11 Deputy Clerk to Board of
County Commissioners

12
13 Clerk's Certificate

14 I hereby certify that the above is a true and correct
15 copy of Ordinance No. 78-18 passed and approved the
16 31st day of October, 1978, and that it has
17 been published according to law and is now in full force
18 and effect.

19
20 SEAL

21
22 
23 Deputy Clerk, Board of County
Commissioners