

RESOLUTION NO. 18-02

RESOLUTION OF THE BREVARD COUNTY HOUSING FINANCE AUTHORITY OF BREVARD COUNTY, FLORIDA APPOINTING AGENTS FOR THE PURPOSE OF SECTION 159.621(2) FLORIDA STATUTES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida (the "State") enacted the Florida Housing Finance Authority Law, Part VI, Chapter 159, Florida Statutes, as amended (the "Act"), pursuant to which the State has empowered each county in the State to create by ordinance a separate public body corporate and politic to be known as a housing finance authority of the county for the purpose of alleviating a shortage of housing and capital for investment in housing in the area of operation of such housing finance authority; and

WHEREAS, pursuant to the Act, the Board of County Commissioners of Brevard County, adopted Ordinance No. 79-09, as amended by Ordinance No. 84-16 (collectively, the "Ordinance") creating the Brevard County Housing Finance Authority (the "Authority"); and

WHEREAS, the Authority is authorized to carry out the public purposes described in the Act by, among other activities, originating, or causing the origination of home mortgage loans with persons or families of low, moderate and middle income for homes within the County and other areas included within the area of operation of the Authority, and by entering into any such contracts and other instruments made in connection therewith; and

WHEREAS, the Authority has previously determined that there exists within the County a shortage of decent, safe and sanitary housing for persons and families of low and moderate income at prices they can afford and that there further exists within the County a shortage of home mortgage loan funds at affordable interest rates; and

WHEREAS, the Authority has determined that in order to alleviate a shortage of housing at prices which persons and families of moderate, middle and low income can afford and a shortage of capital available for investment in such affordable housing, there is a need for the funds that can be made available by the Authority for the purpose of originating home mortgage loans in accordance with Section 159.608(8), Florida Statutes; and

WHEREAS, the Authority has initiated and currently operates one or more home mortgage lending programs to facilitate home ownership by persons and families of moderate, middle and low income, which home mortgage loans are originated by or on behalf of the Authority by participating mortgages lenders which have been approved by the Authority to originate such home mortgage loans on behalf of the Authority pursuant to one or more of its programs; and

WHEREAS, Section 159.621(2), Florida Statutes, as of July 1, 2018, allows for the exemption from the excise tax on documents under Chapter 201, Florida Statutes, so long as the Authority or its agent records an affidavit affirming that a mortgage loan was made by or on behalf of the Authority, at the time the mortgage is recorded; and

WHEREAS, the Authority desires to designate, for purposes of Section 159.621(2), Florida Statutes, each participating mortgage lender originating home mortgage loans under one or more home mortgage loan origination programs operated by the Authority and each mortgagor under such mortgage, an agent of the Authority for the limited purpose of completing, executing and recording an affidavit on behalf of the Authority to entitle a home mortgage loan originated under the Authority's program to the exemption from the excise tax on documents under Chapter 201, Florida Statutes;

NOW, THEREFORE, BE IT RESOLVED BY THE BREVARD COUNTY HOUSING FINANCE AUTHORITY OF BREVARD COUNTY, FLORIDA:

Section 1. Authority for Resolution. This Resolution is adopted pursuant to the provisions of the Act, the Ordinance and other applicable provisions of law and the Authority and its members have full authority to carry out the purposes of the Act.

Section 2. Recitals. The foregoing recitals are hereby incorporated into this Resolution as if fully set forth herein.

Section 3. Designation of Agent. For purposes of Section 159.621(2), Florida Statutes, each participating mortgage lender originating home mortgage loans under one or more home mortgage loan origination programs operated by the Authority and each mortgagor under such mortgage loan, is hereby designated an agent of the Authority for the limited purpose of completing, executing and recording an affidavit on behalf of the Authority in conjunction with each home mortgage loan originated by such participating mortgage lender under the Authority's program, in order to allow each such mortgage to be eligible for the exemption from the excise tax on documents under Chapter 201, Florida Statutes, pursuant to Section 159.621(2), Florida Statutes. Such affidavit shall be in substantially the form attached hereto as Exhibit A. The administrator of each home mortgage loan program operated by the Authority shall maintain a list of participating mortgage lenders, and shall provide authorization to each participating mortgage lenders to complete and record an affidavit substantially in the form of Exhibit A hereto in connection with each home mortgage loan approved by the administrator for inclusion in the Authority's home mortgage loan program.

Section 4. Authorization to Execute Documents. The members, officers, agents and employees of the Authority, upon the advice of the Authority's Bond Counsel, and the Authority's Counsel, are hereby authorized and directed to take all such actions, to do all such things and to execute all such documents, certificates and agreements, including, without limitation, the execution and delivery of any closing documents, as may be necessary to carry out and comply with the provisions of this Resolution or any of the documents attached as exhibits, and all of the actions taken and things done by such members, officers, agents and employees of the Authority which are in conformity with the intent and purposes of this Resolution, whether taken or done before or after the adoption of this Resolution, are hereby ratified, confirmed and approved by the Authority.

Section 5. Severability. If any section, paragraph, clause or provision of this Resolution shall be held to be invalid or ineffective for any reason, the remainder of this Resolution shall

continue in full force and effect, it being expressly hereby found and declared that the remainder of this Resolution would have been adopted despite the invalidity or ineffectiveness of such section, paragraph, clause or provision.

Section 6. Headings Not Part of Resolution. Any headings preceding the text of the several sections of this Resolution shall be solely for convenience of reference and shall not constitute a part of this Resolution, nor shall such headings affect the meaning, construction or effect of this Resolution.

Section 7. Compliance with Law. The Authority has complied with all requirements of law in connection with the adoption of this Resolution, including, without limitation, all applicable provisions of the Act. All formal actions of the Authority concerning and relating to the adoption of this Resolution were taken in an open meeting of the members of the Authority and all deliberations of the members of the Authority and of its committees, if any, which resulted in such formal actions were taken in meetings open to the public, in full compliance with legal requirements.

Section 8. Conflicting Resolutions Repealed. All resolutions of the Authority in conflict, in whole or in part, with the provisions of this Resolution are, to the extent of such conflict, hereby superseded and repealed.

Section 9. Effective Date. This Resolution shall become effective on July 1, 2018 unless the adoption occurs after such date, in which case this Resolution shall become effective immediately upon its adoption.

ADOPTED this 22<sup>nd</sup> day of August, 2018.

BREVARD COUNTY HOUSING FINANCE  
AUTHORITY OF BREVARD COUNTY,  
FLORIDA

[SEAL]

Attest:

By: \_\_\_\_\_  
Kamran Sarkarati, Chairman

\_\_\_\_\_  
[Assistant] Secretary

EXHIBIT A

FORM OF AFFIDAVIT FOR DOCUMENTARY TAX EXEMPTION

EXHIBIT A - AFFIDAVIT REGARDING EXCISE TAX EXEMPTION FOR **SECOND** MORTGAGES

**AFFIDAVIT OF BREVARD COUNTY HOUSING FINANCE AUTHORITY REGARDING EXEMPTION FROM DOCUMENTARY STAMP TAX PURSUANT TO SECTION 159.621(2), FLORIDA STATUTES FOR SECOND MORTGAGE**

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The undersigned authorized representative of the MORTGAGOR named below, hereby affirms:

1. That MORTGAGOR has been designated by the Brevard County Housing Finance Authority (the "Authority") as an agent for purposes of providing this Affidavit in accordance with Section 159.621(2), Florida Statutes for purposes of establishing that the Mortgage described herein is exempt from the excise tax on documents under Chapter 201, Florida Statutes.
2. That this Affidavit is being given in connection with that certain Mortgage dated \_\_\_\_\_, 20\_\_, from \_\_\_\_\_ [Names of Mortgagors] (individually or collectively the "MORTGAGOR") to the Authority to secure a mortgage loan in the principal amount of \$ \_\_\_\_\_, which loan provides financing for the acquisition of real property located in Brevard County, Florida, at \_\_\_\_\_ [Street Address] which Mortgage shall be recorded immediately after this Affidavit.
3. That said Mortgage secures a loan that was made by or on behalf of the Authority under the provisions of Section 159.608(8), Florida Statutes.

Dated this \_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Typed Name: \_\_\_\_\_  
Mortgagor

\_\_\_\_\_  
Typed Name: \_\_\_\_\_  
Mortgagor

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as MORTGAGOR.

\_\_\_\_\_  
Notary Public--State of Florida

Personally Known \_\_\_\_\_  
Produced Identification \_\_\_\_\_  
Type of Identification \_\_\_\_\_

Print Notary Name: \_\_\_\_\_  
My Commission Number is: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_